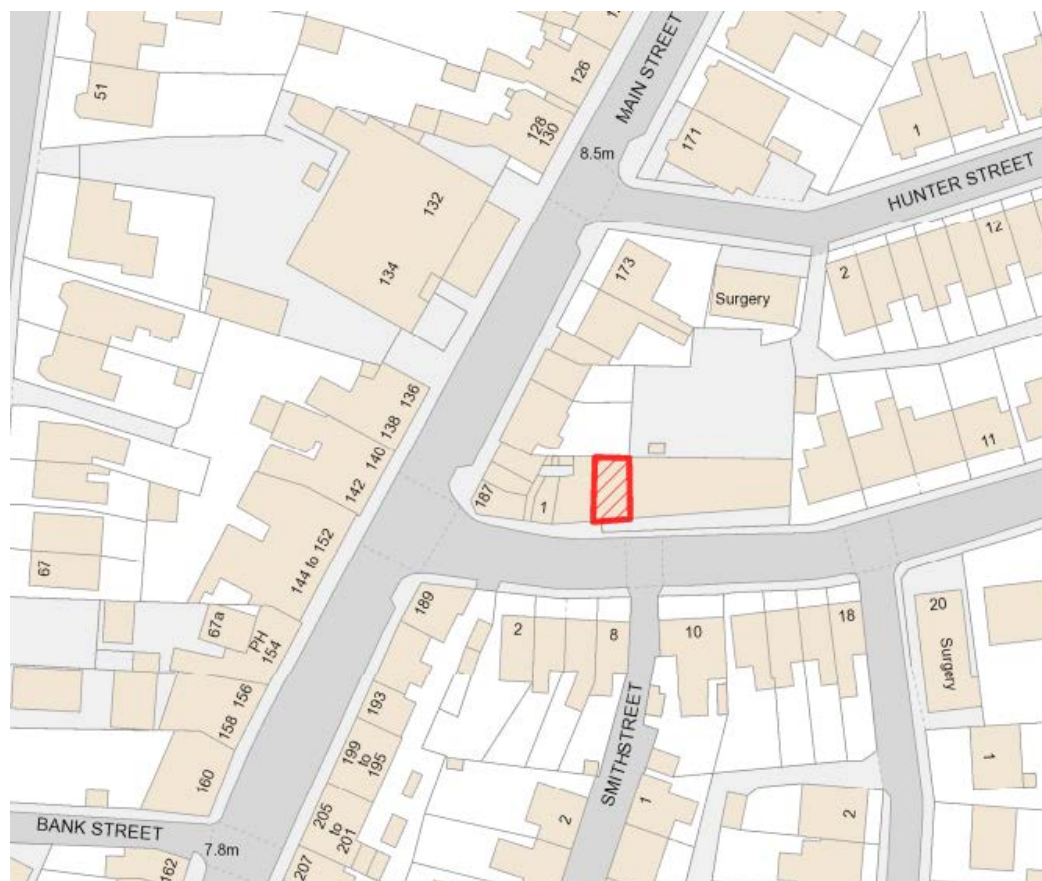


REGULATORY PANEL:**REPORT BY PLACE DIRECTORATE****22/00192/APP****3C ST QUIVOX ROAD PRESTWICK SOUTH AYRSHIRE KA9 1LJ****Location Plan****Summary**

Planning permission is sought for the part change of use of Class 3 food and drink establishment (dessert parlour) to include hot food take away sales from the premises and the erection of an associated flue. The Local Development Plan Town Centres Policy seeks to promote and enhance the vitality and viability of town centres, through encouraging a range of uses. The unit is located within the retail periphery of Prestwick town centre where takeaway establishments are ordinarily directed. The part change of use of the established Class 3 food and drink establishment to a hot food takeaway is therefore considered to be a use both compatible with and expected within the periphery of town centre locations.

The application has been assessed against the various material planning considerations which include the provisions of the Adopted Development Plan, Local Development Plan 2, Scottish Planning Policy, consultations, representations received (8 in total, including Prestwick North Community Council), and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses do not raise any issues of over-riding concern which cannot be addressed by the appropriate conditions. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the neighbouring residential properties presently, and will continue to experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this. Accordingly, the application is recommended for approval.

REPORT BY PLACE DIRECTORATE

REGULATORY PANEL:

SUBJECT:	PLANNING APPLICATION REPORT
APPLICATION REF:	22/00192/APP
SITE ADDRESS:	3C ST QUIVOX ROAD PRESTWICK SOUTH AYRSHIRE KA9 1LJ
DESCRIPTION:	PART CHANGE OF USE OF CLASS 3 UNIT TO FORM HOT FOOD TAKEAWAY AND ERECTION OF FLUE
RECOMMENDATION:	APPROVAL WITH CONDITION(S)

APPLICATION REPORT

This report fulfils the requirements of Regulation 16, Schedule 2, paragraphs 3 (c) and 4 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. The application is considered in accordance with the Council's Scheme of Delegation as well as the Procedures for the Handling of Planning Applications, subject to certain restrictions arising directly from the public health measures put in place to deal with the COVID-19 (Coronavirus) pandemic.

1. Proposal:

The application site is located at unit 3C St Quivox Road, Prestwick, and comprises of an existing Class 3 food and drink premises. Planning permission was granted for the Class 3 use of the premises under application Ref. 18/00786/APP and is part of a larger unit. A parking lay-by for a maximum of seven vehicles, and a realigned footpath along the frontage of the site at St Quivox Road was also implemented under a previous application Ref. 17/00663/APP. The site, and immediate locality is situated within Prestwick town centre, and as such, is bound by a variety of different land uses. Commercial premises are located adjacent to the site, with Prestwick Main Street being located approximately 20 metres to the west of the site. Residential properties are located opposite the site to the south.

Planning permission is sought for the part change of use from the Class 3 food and drink use as a dessert parlour, to a hot food takeaway and the erection of an associated flue. The submission has been accompanied with a Business Operation statement which outlines that the hot food to be sold from the premises shall be limited to hot filled rolls, sandwiches, chips and hot drinks. The equipment to be used in the preparation of the above hot food shall consist of a tabletop grill, chip fryer, kettle, two ring hob and heated soup pot. The premises shall operate between the hours of 8am and 10pm.

The application requires to be reported to the Council's Regulatory Panel, in accordance with the Council's approved procedures for handling planning applications and Scheme of Delegation, as more than five competent written objections have been received from separate households. Additionally, an objection has been submitted by the Prestwick North Community Council. As such, and given the recommendation that planning permission be granted, the application requires to be considered by the Regulatory Panel.

2. Consultations:

Ayrshire Roads Alliance - Offer no objections.

Environmental Health - Offer no objections, subject to the attachment of conditions and advisory notes to any permission granted

Waste Management – Offer no objections, subject to an advisory note regarding the storage of commercial waste bins.

3. **Submitted Assessments/Reports:**

In assessing and reporting on a planning application the Council is required to provide details of any report or assessment submitted as set out in Regulation 16, Schedule 2, para. 4 (c) (i) to (iv) of the Development Management Regulations. None.

4. **S75 Obligations:**

In assessing and reporting on a planning application the Council is required to provide a summary of the terms of any planning obligation entered into under Section 75 of the Town and Country Planning (Scotland) Act in relation to the grant of planning permission for the proposed development. None.

5. **Scottish Ministers Directions:**

In determining a planning application, the Council is required to provide details of any Direction made by Scottish Ministers under Regulation 30 (Directions requiring consultation), Regulation 31 (Directions requiring information), Regulation 32 (Directions restricting the grant of planning permission) and Regulation 33 (Directions requiring consideration of condition) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, or under Regulation 50 (that development is EIA development) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. None.

6. **Representations:**

8 representations have been received which object to the proposed development, including Prestwick North Community Council. All representations can be viewed online at www.south-ayrshire.gov.uk/planning

The issues raised by objectors can be summarised as follows:

- Traffic and transport issues and road safety concerns
- noise and air pollution and antisocial behaviour at locale
- Adverse impact on residential amenity
- Servicing and waste collection arrangements
- Planning history of the site and nature of application
- Nature of and need for the development

Prestwick North Community Council objects to the development proposal for the following principal reasons; the proposal shall have a detrimental impact on residential amenity from cooking smells, increased footfall, increased parking, extended opening hours, increased litter and waste disposal issues.

In accordance with the Council's procedures for the handling of planning applications the opportunity exists for Representees to make further submissions upon the issue of this Panel Report, either by addressing the Panel directly or by making a further written submission. Members can view any further written submissions in advance of the Panel meeting at www.south-ayrshire.gov.uk/planning. A response to these representations is included within the assessment section of this report.

7. **Assessment:**

The material considerations in the assessment of this planning application are the provisions of the development plan, other policy considerations (including government guidance), objector concerns and the impact of the proposal on the amenity of the locality.

(i) **Development Plan**

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) indicates that in making any determination under the Planning Acts, regard is to be had to the development plan; the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

The following provisions of the development plan are considered relevant to the consideration of this application:

- Spatial Strategy - Core Investment Towns
- Sustainable Development
- Town centres (retail periphery)
- Land Use and Transport

The provisions of the Adopted South Ayrshire Local Plan must be read and applied as a whole, and as such, no single policy should be read in isolation. The application has been considered in this context.

The spatial strategy directs development proposals to the core investment towns (i.e Ayr, Prestwick, Troon, Maybole and Girvan), and in particular proposals for commercial, industrial or community facilities. Additionally, the spatial strategy seeks to promote and enhance the vitality and viability of town centres, through encouraging a range of uses, and also an evening and night time economy. More specifically, the LDP Town Centres policy defines the category of land uses which are considered to be acceptable in core and peripheral town centre locations. In peripheral town centre locations this includes hot food takeaway establishments. The provision of such establishments is to be expected in the periphery of town centres, as evidenced by Prestwick, and other town centres with the wider local authority area. The Business Operation Statement submitted by the applicant confirms the nature of the application to continue to operate as a dessert parlour (Class 3 food and drink use) for consumption on the premises, with only a part change of use to sell a limited range of hot foods, for consumption off the premises proposed. As such, the proposal is considered to be appropriately sited within the defined periphery of Prestwick town centre. The application has been considered in this context.

Given its town centre location, the site is considered to be accessible, and the availability of other means of transport other than the private car and including pedestrian links are noted. In considering both the context of the site location, and the improvement works to facilitate off-street parking and pedestrian access in the immediate locality of the site (under application 17/00663/APP), the Ayrshire Road Alliance (ARA) has confirmed it has no objection to the proposed part change of use of the premises. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport and accessibility.

The Scottish Government Department of Planning and Environmental Appeals Division (DPEA) concluded its Examination of the South Ayrshire Modified Proposed Local Development Plan 2 (MPLDP 2 but referred to as LDP 2) and issued its Examination Report on 10th January 2022. At a meeting on 10th March 2022, South Ayrshire Council considered and agreed to accept Modifications, as recommended by the DPEA. At the same meeting, the Council agreed to submit the Plan (including those recommended modifications) to Scottish Ministers as the Local Development Plan that it intends to adopt. LDP 2 now forms a substantial material consideration in the determination of planning applications.

LDP2 will supersede the adopted South Ayrshire Local Development Plan (2014) and Town Centre and Retail Local Development Plan (2017). The provisions of LDP2 remain largely unchanged from both the Adopted South Ayrshire Local Development Plan (2014) and Town Centre and Retail Local Development Plan (2017). The application has been considered in this context.

It is considered that as the provisions of LDP2 remain largely unchanged, the proposed development is also considered to be in accordance with provisions of LDP2.

(ii) Other Policy Considerations (including Government Guidance)

- *Scottish Planning Policy (2014)*

A single consolidated version of Scottish Planning Policy has been prepared and adopted by the Scottish Government in June 2014. This forms the most up-to-date statement in terms of the Scottish Ministers position in relation to land use matters, and is therefore relevant in the consideration of the current application. The SPP is broadly supportive of development which promotes economic activity and development within town centres. The SPP also emphasises the need to make efficient use of existing buildings, land and infrastructure and to redevelop rural and urban brownfield sites before greenfield sites. With specific regard to town centres, the SPP states that "Planning for town centres should be flexible and proactive, enabling a wide range of uses which bring people into town centres. The planning system should:

- apply a town centre first policy when planning for uses which attract significant numbers of people, including retail and commercial leisure, offices, community and cultural facilities;
- encourage a mix of uses in town centres to support their vibrancy, vitality and viability throughout the day and into the evening;

The provisions of Scottish Planning Policy are noted, and the application is considered in this context.

(iii) Planning History of the Site

The most recent planning application at 3 St Quivox Road is noted as follows:

Planning permission was granted under application Ref. 17/00663/APP for the change of use, alterations and extension to form six (Class 1) retail units and one (Class 2) unit for the provision of professional services.

Planning permission was subsequently granted retrospectively under application Ref. 18/00786/APP for the change of use of the current application site (which occupies one of these units) from a Class 1 retail unit to form a Class 3 food and drink establishment (dessert parlour).

(iv) Objector Concerns

- Traffic and transport issues and road safety concerns

These aspects are considered elsewhere in this report; however, the development proposals are obliged to meet the transport needs arising from the proposal. The availability of short-term parking at this locale is consistent with town centre locations. St Quivox Road and the surrounding streets form part of the local road network which is managed and maintained by the ARA and where existing and proposed traffic regulation orders, in addition to road lining ensure that the network operates in an acceptable manner and remains accessible to emergency vehicles. In the context of the town centre location of the site, the ARA has confirmed it has no objection to the proposed part change of use of the premises to form a Class 3 and hot food takeaway facility at the application site. For these reasons, the proposal is not considered to raise any issues relating to traffic, transport, road safety and accessibility.

- Adverse impact on residential amenity, including litter, noise, air pollution, health and safety, hours of operation, servicing and waste collection arrangements

The impact of such proposals on the residential amenity of nearby properties requires to be carefully considered. Given the current use of the site as a class 3 premises and the commercial use of adjoining buildings, it is considered that neighbouring residential properties presently, and will continue to experience, a level of amenity which is commensurate with their location within Prestwick town centre, and that the proposal will not significantly alter this.

The proposed hours of operation of the premises are to range between 8am and 10pm. Given the location of the application site within the retail periphery of Prestwick town centre, it is not considered that the proposed hours of operation are inconsistent with a location of this nature. A condition shall be attached to the permission limiting to the hours of operation of the premises to between 8am and 10pm, inclusive.

Additionally, should any statutory noise nuisance arise, or any other matter related to air quality, lighting or health and safety issues, it is for the Council's Environmental Health Service to address such matters under their statutory powers. The Council's Environmental Health Service were therefore consulted regarding the development proposals under consideration. In their response, they offered no objections to the development subject to the attachment of appropriate conditions and advisory notes (captured below) to any planning permission granted.

With regard to the potential for increased litter, it is noted that the waste collection arrangements are located to the rear of the premises. Additionally, the Council's Waste Management Service have recommended an advisory note be attached outlining that all commercial waste must be stored to the rear of the premises. For these reasons, any increased litter arising from the proposal is not expected to be so significant so as to warrant a recommendation to refuse the development proposal.

- Planning history of the site and need for the development

The previous application at the site (Ref. 18/00786/APP) was for the change of use of the unit from Class 1 retail to Class 3 food and drink (dessert parlour). The current application is for the proposed part change of use of the Class 3 unit to form a hot food takeaway and the erection of an associated flue. The applicant/agent is not required to demonstrate a need for the proposal, and therefore the application is considered on its own merits.

- Other concerns, including, anti-social behaviour and adverse impact on health and well-being

The application property will continue to operate as a dessert parlour with the proposed hot food take away element being an additional and supplementary offering. Class 3 and hot food takeaways uses are commonplace in town centres, and as such, its use is considered to be compatible with the town centre location. The residents' perceived fear of crime and potential for anti-social behaviour are primarily matters for the police. Notwithstanding, given the location of the site within Prestwick town centre it is considered that nearby residential properties presently, and will continue to experience, a level of amenity which is commensurate with their location within a town centre, and that the proposal will not significantly alter this. With regard to any potential adverse impact(s) on health and well-being it is not considered that there is an over proliferation of hot food take away establishments in the area but rather a mix of offerings with regards eating out.

(iv) Impact on the Locality

As noted above, the application site is located within the periphery of Prestwick town centre area in the Adopted South Ayrshire Local Development Plan. Town centres are characterised by a range of different land uses which co-exist, often adjacent to, or within close proximity of each other. Town centres are also widely recognised as being the primary focus for retail, commercial uses, services and leisure opportunities, and in terms of being accessible locations with opportunities for use by a range of different modes of transport. Class 3 food and drink uses and sui generis hot food takeaway establishments are commonplace in town centres, and as such, there is no issue with the proposed use from a planning perspective, it is compatible with the town centre location of the site.

The submission has been accompanied with a Business Operation statement which outlines that the hot food to be sold from the premises shall be limited to hot filled rolls, sandwiches, chips and hot drinks. The equipment to be used in the preparation of the above hot food shall consist of a tabletop grill, chip fryer, kettle, two ring hob and heated soup pot. An appropriate condition can be attached to any permission granted to ensure that the equipment used in the preparation of hot food is restricted to those listed within the supporting statement.

The proposed flue is to be erected to the rear elevation of the unit which bounds a parking and storage area. The proposed flue is located to the rear elevation of the premises and outwith public view. It is considered that the proposed flue is acceptable in size, scale, siting and design in that it will not be visible from the public vantage points. Given its proposed siting, the flue is considered to be acceptable and not to have a significant detrimental impact on the visual or residential amenity of the surrounding locality.

The Council's Environmental Health Service has no objection to the proposal subject to the advisory notes as captured below.

While the impact of the development proposals on the residential amenity of nearby properties requires to be carefully considered, given the current use of the site as a class 3 food and drink establishment, and that only a part change of use to form a hot food takeaway is proposed, it is considered that neighbouring residential properties presently, and will continue to experience a level of amenity which is commensurate with their location within the town centre, and that the proposal will not significantly alter this.

8. Conclusion:

Overall, subject to the aforementioned conditions, the proposed development complies with the development plan, and is considered to have an acceptable relationship to surrounding land and buildings, and an acceptable impact on the locality. The application has been assessed against the various material planning considerations which include the provisions of the development plan, Scottish Planning Policy, consultations, representations received, the planning history of the site and the impact of the proposed development on the locality. The assessment concludes that the proposed development complies with the development plan. The consultation responses recommend appropriate conditions be attached to any permission. Equally, the points raised in the letters of objection have been fully considered, but do not raise any issues that would merit a recommendation of refusal of the application. Overall, there are no policy objections and following the above assessment, it is considered that the proposal will not have an adverse impact on the amenity of the locality. Given the above assessment of the proposal and having balanced the applicant's rights against the general interest, it is recommended that the application be approved.

9. Recommendation:

It is recommended that the application is approved subject to the following conditions: -

- (1) That the development hereby granted shall be implemented in accordance with the approved plan(s) as listed below and as forming part of this permission unless a variation required by a condition of the permission or a non-material variation has been agreed in writing by the Planning Authority.
- (2) Ventilation within the kitchen areas requires to be adequate and suitable for the food handling/cooking carried out therein. In order to prevent the occurrence of a smell nuisance, the ventilation system in this area must be provided with suitable means of filtration e.g., grease and charcoal filters and extended ducting terminating at least one metre above eaves level of any building within 15m of the building housing the commercial kitchen, or alternatively the operation of the premises is limited to enclosed unit cooking. Details of the ventilation shall be submitted for the prior written approval of the planning authority through consultation with the Council's Environmental Health Service and shall be implemented as approved before any cooking or preparation of hot food takes place on the premises.
- (3) That, prior to the part change of use of the premises to hot food take away, an acoustic consultant's report or manufacturer's specifications are required to demonstrate, for the approval in writing of the planning authority, that the noise from the ventilation extract system will comply with NR25 (noise rating criteria) within a habitable room of the nearest noise sensitive dwelling to the application site with windows open sufficiently for ventilation. The method(s) for measuring and calculating this noise level can be undertaken and demonstrated without gaining physical access to a habitable room of the nearest noise sensitive dwelling to the application site. Any changes to the ventilation extract system, that may be approved under the terms of this condition, shall require the prior written consent of the planning authority through consultation with the Council's Environmental Health Service.
- (4) The equipment to be used in the preparation of food to be sold from the premises shall be restricted to those methods of cooking outlined within the submitted Business Operation Statement. No other form of cooking and/or heating of food stuffs shall be utilised within the premises without the prior written approval of the Planning Authority.
- (5) The hours of operation of the development shall be restricted to between 8 am and 10 pm.

Reasons:

- (1) To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.
- (2) In order to prevent the likelihood of a smell nuisance.
- (3) In order to prevent the likelihood of a noise nuisance.
- (4) To clarify the terms of the permission and in the interests of amenity.
- (5) In the interests of residential amenity.

Advisory Notes:

- (1) The permitted noise levels and working times as specified in "South Ayrshire Council's Environmental Health, levels and conditions to be applied to works on construction sites" should be adhered to.
- (2) The premise requires to fully comply with the Health and Safety at Work etc Act 1974 and the Food Safety Act 1990 and any Regulations and requirements therein and thereto.
- (3) It is recommended that the air source heat pump unit be installed using anti-vibration mounts where it attaches to a building, the ground or other hard surface, in order to prevent additional noise caused by vibration.
- (4) Any commercial bins must be kept in the car park area to the rear of the premises which is accessed from Hunter Street. No commercial bins can be stored on St Quivox Road.

List of Determined Plans:

Drawing - Reference No (or Description): **Approved** Location Plan
 Drawing - Reference No (or Description): **Approved** 1
 Other - Reference No (or Description): **Approved** Business Operation Statement

Reason for Decision (where approved):

The proposed part change of use, hereby approved, is considered to accord with the provisions of the development plan and there is no significant adverse impact on the amenity of neighbouring land and buildings.

The explanation for reaching this view is set out in the Report of Handling and which forms a part of the Planning Register.

Background Papers:

1. Planning application form, plans and supporting information

2. Adopted South Ayrshire Local Development Plan
3. Local Development Plan 2
4. Representations (available online)
5. Scottish Planning Policy

Equalities Impact Assessment:

An Equalities Impact Assessment is not required because the proposed development is not considered to give rise to any differential impacts on those with protected characteristics.

Person to Contact:

Ms Emma McKie, Planner - Place Planning - Telephone 01292 616 203

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