

WEST DUNBARTONSHIRE COUNCIL

Report by Planning, Building Standards and Environmental Health Manager

Planning Committee: 20th September 2023

**DC23/070/FUL: Change of use from cafe to tyre change garage at 6 Old Street
Duntocher, Clydebank, Alexandria by Mr Peter Ferrier**

1. REASON FOR REPORT

- 1.1** The planning application is subject to a substantial body of objection. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Refuse planning permission** for the reasons set out in Section 9 of this report.

3. DEVELOPMENT DETAILS

- 3.1** The application relates to 6 Old Street in Duntocher, Clydebank. The site is bounded to the north by a car park with bus shelter, beyond which lies the former Duntocher West United Free Church of Scotland, however this building is no longer in use. To the east, south and west are residential properties. The residential properties to the east comprise three storey blocks of flats, to the south and west is mostly two storey terraced dwellinghouses, the closest of which has an adjoining boundary with the application site. Directly to the south, and also with an adjoining boundary, lies a one and a half storey, detached dwellinghouse. The site measures approximately 348 square metres and the building was most recently operating at a café, however the café has now closed. The orientation of the building sees its gable onto Old Street with the entrance facing the parking area and bus stop. When in operation as a café, an outdoor seating area was situated adjacent to the gable, between the pavement and the building. The building is single storey in height with only one window on the east elevation facing the road. A gated access from Old Street leads to a rear yard.
- 3.2** The application seeks to change the use from a café to a tyre-changing garage. Externally, the changes to building are limited with the window on the gable elevation changing to a door and a new refuse store created with timber fence screen on the side elevation which fronts the carpark. The outdoor seating enclosure will also be removed. Three car parking spaces are proposed to be located on the eastern side of the building, accessing from Old Street. No cars will be brought into the building itself, with all works for tyre fitting to be undertaken outside. Internally, what was the kitchen would become storage and a reception is proposed which is accessed via the doorway on the side elevation. The former café area itself would become an area associated with

the operation of the tyre fitting use. The business in its current location has three full time members of staff with another person who can work for the business on occasion i.e. to cover holidays. The proposed move would allow for an apprentice to be taken on as well as a full time receptionist, bring the number employed on a full time basis to five.

- 3.3** The planning history for the site includes a change of use from an office to a deli with hot food takeaway which was approved in September of 2015 (application DC15/138) as well as an outside seating area associated to the café which was approved in June 2017 (application DC17/056). An application for a change of use of the café to form a dwellinghouse as well as alterations and extension has also previously been submitted but not determined at this time due to difficulties in engaging with the agent (application DC22/221/FUL).

4. CONSULTATIONS

- 4.1** West Dunbartonshire Council Environmental Health Service have no objections subject to a condition for the submission of a noise impact assessment as this operation is introducing a commercial activity with the potential to generate noise levels that could have an adverse effect on nearby sensitive receptors.
- 4.2** West Dunbartonshire Council Roads Service have no objections to the proposal on roads or flooding matters.

5. REPRESENTATIONS

- 5.1** Ninety six representations have been received in connection with the proposal. Eleven are in objection and eighty five are in support. Those in objection to the application mostly reside locally to the site and those in support of the application are mostly from a wider area. The full details are contained within the planning file and are available for public viewing. However, the points raised in both objection and support can be summarised as follows:

5.2 Objection

- This is a residential area which is not suitable for this type of business.
- There will be an increase in traffic congestion.
- Concerns that the use is near a play park.
- The road infrastructure is not in place to support an industrial business.
- There are sufficient provisions of this type of business in the area.
- The development would be unsightly with hazardous materials and chemicals.
- There will be an increase in noise.
- There isn't enough parking in the area currently.

5.3 Support

- This site has been everything from a tyre garage, to a car garage, to selling head stones before it was a cafe.
- The café had longer opening hours and more customers so would have more traffic.

- The café was allowed to function without any onsite parking as is proposed in this application.
- The proposed site is a much safer location to trade from than the existing site.
- It's a great idea to move the business off the main road
- As it only opens 8am to around 5pm the noise level would be restricted to the times and no noise at night time.
- There is no problem with residents living near as it would be normal hours of business.
- Cars get tyres changed and are away so are not parking overnight
- Clydebank/Duntocher needs these services as seen from the original premises.
- These services are to the highest standards.
- This is a valuable, reliable and affordable service to the community.
- This is a long standing local business run by local people.
- They support other local firms.
- Full support should be given to local businesses looking to expand / improve.
- They will return community value to the entire area.
- The proposal could bring more jobs

5.4 The matters raised above are considered and addressed in Section 7 below.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

National Planning Policy 4

6.1 National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13th of February 2023 and now forms part of the Development Plan.

6.2 Policy 1 relates to tackling the climate and nature crises and states that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy 2 also relates to the climate in the form of climate mitigation and adaptation and states development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible and development proposals will be sited and designed to adapt to current and future risks from climate change.

6.3 As the building is currently vacant, Policy 9 which relates to brownfield, vacant and derelict land, and empty buildings applies. Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Policy 12 which considers zero waste also supports the reuse of existing buildings and infrastructure.

6.4 Policy 14 requires that development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale. Policy 15 relates to local living and 20 minute neighbourhoods. Development proposal will contribute to local living including, where relevant, 20 minute neighbourhoods. Consideration will be given to existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to employment.

- 6.5** Policy 23 relates to health and safety. Part (e) states that development proposals that are likely to raise unacceptable noise issues will not be supported. A Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely.
- 6.6** As the development is for a Class 5 (General Industrial) use, Policy 26 Business and industry applies. Policy 26 states that development proposals for business and industry uses on sites allocated for those uses in the LDP will be supported. Part (d) also states that development proposals for business, general industrial and storage and distribution uses outwith areas identified for those uses in the LDP will only be supported where: it is demonstrated that there are no suitable alternatives allocated in the LDP or identified in the employment land audit; and the nature and scale of the activity will be compatible with the surrounding area. Part (e) also states that development proposals for business and industry will take into account: impact on surrounding residential amenity and the need for appropriate site restoration at the end of a period of commercial use.
- 6.7** The matters relevant to the assessment against the above policies are addressed in detail in Section 7 below. It is concluded that the proposal is not in accordance with Policies 9, 23 and 26 of NPF4.

West Dunbartonshire Adopted Local Plan 2010

- 6.8** As stated, the building has become vacant, Policy UR1 - Urban Renewal applies. The Council, in conjunction with other agencies, will continue to promote the re-use of land and buildings in the urban area that become vacant, derelict or underused in order to stimulate the process of urban renewal and thereby enhance the Plan area as a place to live, work and visit.
- 6.9** All new development is expected to be of a high quality of design and to respect the character and amenity of the area in which it is located in accordance with Policy GD1.
- 6.10** As the proposed use of Class 5 (General Industrial) on a site not designated for industrial use, Policy LE3 - Industrial & Business Use Development Outwith Designated Sites applies. Policy LE3 states that proposals for industrial, business and warehousing developments (Use Class 4, 5 and 6) on sites other than those identified on the Proposals Map under Policy LE 1 as being existing or potential employment areas, will require to be justified against the following criteria:
- the proposed development could not be accommodated on any other available industrial/business site in the Plan area;
 - there would be significant overall economic benefit to the Plan area;
 - there will be no significant undesirable landscape and amenity impacts;
 - there would be no major infrastructure implications;
 - the site is accessible to public transport, walking and cycling routes; and
 - the proposed development conforms with other Local Plan policies.

- 6.11** Policy H5 relates to development within Existing Residential Areas. The character and amenity of existing residential areas, identified on the Proposals Map, will be safeguarded and where possible enhanced. With regard to non-residential uses, it will be assessed whether they can be considered ancillary or complementary to the residential area, and would not result in a significant loss of amenity to the surrounding properties. A significant loss of amenity might be expected to occur as a result of increased traffic, noise, vibration, smell, artificial light, litter, hours of operation and general disturbance.
- 6.12** The matters relevant to the assessment against the above policies are addressed in detail in Section 7 below. It is concluded that the proposal is not in accordance with policies GD1, H5 and LE3 of the adopted Local Plan.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.1** On 15 March 2023, the Planning Committee took a decision that the Council would not adopt Local Development Plan 2. The Proposed Local Development Plan 2 (LDP2), incorporating the recommended modifications of the Examination Report received on 22 April 2020, which were accepted by the Planning Committee of 19 August 2020, remains the Council's most up to date spatial strategy and is therefore afforded significant weight in the assessment and determination of planning applications, subject to compatibility with NPF4. The Scottish Ministers' Direction relating to the adoption of LDP2, dated 18 December 2020, is also a material consideration.
- 7.2** Policy H4 of the LPD2 relates to residential amenity. The policy states that the Council will protect, preserve and enhance the residential character and amenity of existing residential areas at all times. In this regard, there will be a general presumption against: b) The establishment of non-residential uses within, or in close proximity to, residential areas which potentially have detrimental effects on local amenity or which cause unacceptable disturbance to local residents.
- 7.3** Policy ENV8 relates to air, light and noise pollution. All new development must ensure that significant adverse noise impacts on surrounding properties and uses are avoided.
- 7.4** Policy E1 supports economic development by directing proposals for business, industrial, or storage and distribution uses to the sites listed in Schedule 4. Development of Class 4, 5 and 6 uses within existing business and industrial areas not listed within Schedule 4, but identified on the Proposals Map, will be supported by the Council.
- 7.5** Policy CP1 requires new development to take a design led approach to creating sustainable places which puts the needs of people first and demonstrate the six qualities of successful places.
- 7.6** Overall, the proposal is not supported by the policies CP1, H4 and ENV8 of proposed Local Development Plan 2.

Principle of Development

- 7.7** The site is located within a residential area as defined by both the adopted Local Plan and proposed Local Development Plan 2. Overall, the area is residential in character with residential properties immediately to the east, south and west. Notwithstanding this, a variety of other uses are also found within the vicinity of the site, mostly located on the A810 Dumbarton Road, and providing local facilities within the area. These include retail shops, a barbers, a beauticians, hot food takeaways and public houses. Areas of open space also lie in close proximity to the site. The proposed site, is however off the main A810 and within an area more characteristically residential.
- 7.8** In assessing whether the principle of the development is acceptable at this location, Policy 26 Business and industry of NPF4, Policy LE3 of the Local Plan and Policy E1 of the Local Development Plan 2 all direct industrial uses to existing industrial sites or sites which have been allocated for industrial uses. Policy 26 of NPF4 allows for industrial uses outwith the defined areas where it has been demonstrated that there are no suitable alternatives allocated within the LDP. Policy LE3 of the adopted Local Plan takes a similar position with this Policy requiring justification that the proposed development could not be accommodated on any other available industrial/business site in the Plan area. Whilst there are no designated industrial sites adjacent to the site itself, there are multiple sites allocated within the adopted Local Plan and proposed Local Development Plan 2 within Clydebank. No supporting information has been submitted in relation to the application in terms of what other sites have been considered and why the proposal could not be accommodated within an existing business and industrial area as defined by the adopted Local Plan and proposed Local Development Plan 2, Policy LE3 also sets out a requirement that any proposal for a business and industrial use outwith designated areas, would result in significant overall economic benefit to the plan area. Whilst no details, figures or supporting documents have been provided by the applicant to quantify economic benefit, it is acknowledged that the new use will create local employment and contribute to the local economy. However, due to the small scale of the proposal, any new employment generated and associated economic benefit would also be at a small scale and not of a significant level. It is also noted that the previous use of the premises as a café would have resulted in a level of economic activity contributing to the area and there is no evidence to suggest that the introduction of an alternative industrial use would lead to any significant benefits beyond the previously established position.
- 7.9** Whilst the reuse of vacant buildings is supported by Policies 9 and 12 of NPF4, the former requires that their suitability for the proposed use has to be considered. The benefits of the re-use of this building require to be weighed against their suitability for conversion and it does not follow that this Policy supports new uses within existing buildings where they are not compatible with established adjacent uses. Policy UR1 of the adopted Local Plan supports the re-use of vacant buildings in order to stimulate the process of urban renewal, it is not considered that the re-use of this standalone building would itself contribute to any wider urban renewal within this locality.

Visual Amenity

- 7.10** In regard to the appearance of the building, there are few external alterations to the existing building. There are no proposals for permanently sited outdoor storage and equipment associated with the use which would be to the visual detriment of the area. As such the proposal will have no unacceptable impact upon the visual amenity of the area.

Impact on Residential Amenity

- 7.11** Residential properties surround the site on three sides, with two properties also sharing a boundary fence with the site. Policy 26 of NPF4 requires the suitability of the building for the proposed use to be taken into account and the impact on residential amenity is a key consideration in this respect. Policy 23 of NPF4 further advises that development proposals that are likely to raise unacceptable noise issues will not be supported. It is further set out that the agent of change principle applies to noise sensitive development and that a Noise Impact Assessment may be required where the nature of the proposal or its location suggests that significant effects are likely. Policy H5 of the adopted Local Plan requires that non-residential proposals in residential areas do not have an adverse impact on residential amenity, with noise specifically highlighted. Policy GD1 requires proposals to be appropriate in terms of land use. Policy H4 of proposed LDP2 further states that there will be a general presumption against the establishment of non-residential uses within, or in close proximity to residential area which potentially have detrimental effects on local amenity or which cause unacceptable disturbance to local residents. Policy CP1 requires proposal to respond to the established pattern of development.
- 7.12** Noise disturbance is raised as a concern in the objections received. The Council's Environmental Health Service highlighted that the proposal is introducing a commercial activity with the potential to generate noise levels that could have an adverse effect on nearby residential properties. It is recognised that the nature of the use which would involve fitting of tyres in the open air would likely create disturbance from noise and activity generated by the use of machinery as part of the processes for changing tyres. Even if the process of mounting tyres to wheels was undertaken inside, with vehicles being located outside it is inevitable that the door of the premises would remain open during working hours with the associated transference of noise outside.
- 7.13** The recent appeal decision in respect of an outdoor tyre fitting use on a nearby site at the corner of Dumbarton Road and Beeches Road is also noted. Like this proposal, the appeal site was also opposite residential properties and in determining the appeal the Reporter consider that the proposed use would generate noise of a type incongruous with a residential area, different in nature to that arising from other existing local businesses within the vicinity, and that residential neighbours would be likely to experience it as disturbance. The conclusions of the Reporter are material in the consideration of this application with the location and relationship to existing residential properties being very similar. The Council's Environmental Health Service does highlight that a noise impact assessment could be undertaken to consider noise impact and potential mitigation further. In the event that the Council had been otherwise minded to

grant planning permission this could have been requested to provide further information to inform the application assessment on matters relating to noise.

- 7.14** In further considering residential amenity, development proposals should be designed to improve the quality of an area regardless of scale. Whilst it is accepted that the last planning use as a café brings people into the area, the main activity of the café would have been contained within the building. The proposal for the tyre changing business proposes to use what is currently the outside seating area for the café to change the tyres and is not contained within the building itself. The outdoor seating area was previously granted for the café and as such the associated activity at the front of the building was considered acceptable. However, the proposed new use has the potential to result in an increase in noise and activity beyond the previous position as set out above which would not improve the quality of the area. Also noise activity from an outside area associated with a café is different in nature from the changing of tyres which would be a noisy activity due to machinery and equipment involved in tyre changing as detailed above.

Parking and Access

- 7.15** The proposal provides three additional parking spaces which are to the front of the building where the outside seating area and access to the rear yard is currently. The submitted drawings indicate that these spaces would be used for the changing of tyres. The Council's Roads Service initially raised concern that three parking space was not sufficient when there is no internal garage space. Evidence was requested to demonstrate that the provided spaces was sufficient for the business. The applicant advises that the three spaces are adequate for the business as proposed as tyres are repaired/replaced when vehicles arrive and jobs are not accepted and then left sitting. If a job requires something to be ordered then customers are asked to return at a later date. It has also been stated that due to manpower/machinery, only a certain number of tyres can be repaired/replaced at any one time and a booking system is required. In addition, the applicant highlighted that the previous use as a café, did not provide any dedicated parking. In response, the Roads Service have no objections to the proposal. Whilst the concerns raised in the objections in this regard are acknowledged, there are thus no issues in respect of road safety which arise that would justify refusal.

Other Technical Considerations

- 7.16** Whilst the SEPA flood maps indicate a localised surface water flood risk in the vicinity of the site, the site itself is not affected and the Council's Roads service offers no objections on flood risk grounds. This proposal for the change of use of an existing building does not raise any concerns in respect of the climate and nature crises or climate mitigation or adaption.

Matters raised in representations

- 7.17** Turning to the outstanding points raised in the submitted representations which have not been assessed above. It has been raised in objection that there is a sufficient provision of this type of business in the area. It has also been raised in support that Duntocher/Clydebank needs this service. It is however, not the place of the planning system to inhibit competition and as such this is not a

justification for the refusal of planning permission. Whilst the possibility of hazardous materials and chemicals being stored is also raised as a concern, and any such storage would be of a low level. Some of the letters of support relate to the high levels of service, reliability, long standing nature and prices of the business proposed in its current location. Again, these are not material planning considerations.

7.18 The letters of support also note that the café had longer opening hours. Planning application DC15/138 limited that hours of operation for the café from 7am to 6pm, Monday to Saturdays. Whilst no proposed working hours have been noted as part of the application submission, hours of operation for any granting of the tyre business would be conditioned. The tyre business creating less traffic than the café has been highlighted in support. Neither business has had objections on traffic basis and as such either business would be appropriate in terms of traffic generation.

7.19 The improvement in safety from the current location that the applicant runs their business from resulting from the proposed premises not being located on a main road has also been noted. Working hours expected being from 8am to around 5pm and therefore noise not being at night has been highlighted. It is accepted that the business would be anticipated to run to these standard working hours, however with residential properties so close in proximity, there is still the possibility for noise nuisance from this industrial use during the day.

8. CONCLUSION

8.1 The proposal would result in the siting of a Class 5 (General Industrial) use within an existing residential area and not in a business and industrial area. No supporting information has been submitted in terms of what other sites have been considered and why the proposal could not be accommodated within an existing business and industrial area as defined by the adopted Local Plan and proposed Local Development Plan 2. This results in the proposal not being supported by Policy 26(d) (i) of NPF4 together with Policy LE 3 of the adopted West Dunbartonshire Local Plan. Additionally the proposal is not supported by Policy LE3 of the adopted Local Plan as it is not considered that the proposal would result in significant overall economic benefit to the area.

8.2 It is further considered that the proposal is incompatible with established residential amenity due to the potential for noise disturbance to occur to the detriment of adjacent residents. The proposal is therefore not acceptable with reference to Policies 9, 23(e) and 26(d) (ii) of NPF4, Policies GD1, H5 and LE3 of the adopted Local Plan and policies CP1 and H4 of the proposed Local Development Plan 2.

9. REASONS FOR REFUSAL

1. The proposal would result in the siting of a Class 5 (General Industrial) use – tyre changing garage within an existing residential area. . No supporting information has been submitted in terms of what other sites have been considered and why the proposal could not be accommodated within an

existing business and industrial area as defined by the adopted Local Plan and proposed Local Development Plan 2. Accordingly the proposal is not supported by Policy 26(d) (i) of NPF4 together with Policy LE 3 of the adopted West Dunbartonshire Local Plan.

2. The proposal would not result in significant overall economic benefit to the local area and therefore the proposal is not supported by Policy LE3 of the adopted Local Plan.
3. The proposal is incompatible with established residential amenity due to the potential for noise disturbance to occur to the detriment of adjacent residential properties. The proposal is therefore contrary to Policies, 9, 23(e) and 26(d)(ii) of NPF4, Policies GD1, H5 and LE3 of the adopted Local Plan and policies CP1 and H4 of the proposed Local Development Plan 2.

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Date: 20th September 2023

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Appendix: Location Plan

Background Papers:

1. Application forms and plans
2. Consultation responses
3. Representations
4. National Planning Framework 4
5. West Dunbartonshire Local Plan 2010
6. Proposed West Dunbartonshire Local Development Plan 2 2020, as amended

Wards affected: Ward 4 (Kilpatrick)