

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Officer – Regulatory and Regeneration

Planning Committee: 13 January 2021

DC20/201: Proposed temporary relaxation of Conditions Nos. 3 and 4 to allow use of side doors for access and egress (DC09/297) at 25-27 Kilbowie Road, Clydebank by Ms Lesley Murray

1. REASON FOR REPORT

- 1.1** The application seeks to amend conditions which were imposed by the Planning Committee. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** **Grant temporary** planning permission for a period of 12 months subject to the conditions set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** The application site is a single storey building located within Clydebank town centre. To the north of the site there is a detached house and a railway line, to the east there is Kilbowie Road and commercial properties with tenement flats above, to the south there are offices and to the west there is a telephone exchange building. The property currently operates as a dance studio with three separate rooms used for dance classes along with toilets, changing areas and a small office. The dance studio is accessed via an entrance on Kilbowie Road, however, there is a lane at the side of the building with two doors providing emergency/disabled access.

- 3.2** In 2010 planning permission was granted to change the front part of the building from a photography studio to a dance studio. The application was granted subject to a number of conditions including the following:

Condition 3 - Notwithstanding the submitted plans, entry and exit to all dance studios and any ancillary uses shall be from the entrance on Kilbowie Road as specified in the e-mail dated 2 February 2010.

Condition 4 - Notwithstanding the submitted plans all doors to the side of the building shall remain closed except for emergency or disabled access.

The reason for both conditions was 'to prevent noise and disturbance to the adjacent residential property.'

The current application proposes the temporary relaxation of conditions 3 and 4 to allow the two side doors of the dance studio to be used for entering and exiting the premises. The door to the front of the building facing Kilbowie Road would continue to be used also. The applicant has stated that use of the side doors is required to enable the premises to operate under the current government guidance with regard to COVID-19. There are three dance studios/ rooms within the premises and this arrangement would allow each to have their own entrance/ exit which would minimise children (and parents/ carers) from different classes coming into contact with each other. The applicant proposes only a temporary relaxation of the conditions and suggests a period of 18 months to 2 years.

4. CONSULTATIONS

- 4.1 West Dunbartonshire Council Environmental Health Service has no objections to the proposal provided no music is played in the premises when the side entrance doors are open and subject to the conditions as set out in section 9 below.

5. REPRESENTATIONS

- 5.1 One representation objecting to the application has been received from the occupant of the adjacent residential property to the north and 81 representations have been received in support of the application, primarily from parents/ carers of children who attend the dance studio. A summary of the points raised in the representations are as follows:

Points of Objection:

- Impact on residential amenity in relation to noise.
- Matters of public health are not material planning considerations so should not be considered.
- WDC Roads have not raised any road traffic concerns during the determination of previous applications for change of use at this site so roads matters are not a reason or justification for the alternative access arrangements that are proposed.
- Better management systems for children leaving the building can be put in place to avoid using the side doors, applicant has had time to consider other options.
- Difficulties regulating the position after a temporary planning permission timescale ends, and with vaccine now being rolled out any temporary consent should last for a few months rather than years.
- Historically, the side doors have not been used to enter the dance studio or other uses that previously occupied parts of the building.
- Application is retrospective as side doors have been used since September 2020.
- History of problems on site regarding noise from dance studio.
- Applicant hasn't considered impact on neighbour when reopening and hasn't made contact with neighbour to resolve problems as previously promised.

Points of Support

- Use of side doors reduces interaction between children in different classes, as well as parents/ carers, and therefore reduces risk of COVID-19 spreading.
- Safer for small children to use side doors as main entrance is on a busy road.
- Dance studio can operate while adhering to social distancing rules, which benefits the physical and mental health of children.
- System of entry and exit is well organised with small numbers of children using the lane at any one time, reducing potential for noise disturbance.

5.2 The concerns raised in the representations are addressed in section 7 below.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Local Plan 2010

- 6.1** The site is located within the town centre. Policy GD1 seeks to ensure that all new development respects the character and amenity of the surrounding area. Policy LE7 specifically addresses business development in mixed use or residential areas and supports such development where there would not be an adverse impact on residential amenity or the surrounding uses.
- 6.2** It is considered that the use of the side doors would not have a detrimental impact on the adjacent house or other surrounding properties, provided that their use is managed in accordance with the proposed conditions and for a temporary period only. Overall, it is considered that the proposal complies with Policies GD1 and LE7. This is addressed in more detail in Section 7 of this report.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP1) Proposed Plan

- 7.1** On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan Examination Report recommended modification in respect of including the Duntiglennan Fields site in Clydebank as a housing development opportunity, and therefore, as a result of the Scottish Ministers' Direction, the Local Development Plan has remained unadopted but continues to be a material consideration in the determination of planning applications.
- 7.2** The site is located within the Town Centre. Policy SC3 relates to non-retail uses within town centres and states that such uses will be assessed in terms of their impact on the amenity of the centre and surrounding uses. Policy DS1 states that all development should avoid unacceptable impacts on adjoining uses including those of noise and invasion of privacy.
- 7.3** The proposal is considered to comply with the aforementioned policies and this is discussed further in Section 7.9 below.

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

- 7.4** The modified Plan and associated documents was approved by the Council on 19 August 2020. The Council has now advised the Scottish Ministers of its intention to adopt the Plan. Local Development Plan 2 is therefore the Council's most up to date policy position and is afforded significant weight in the assessment and determination of planning applications.
- 7.5** The site is located within the Town Centre where Policy 1 seeks to ensure proposals will not be detrimental to surrounding uses. Policy ENV8 relates to air, noise and light pollution and states that all new development must ensure that significant adverse noise impacts on surrounding properties and uses are avoided.
- 7.6** The proposal is considered to comply with the aforementioned policies and this is discussed further in Section 7.10 below.

Planning History and Principle of the Change

- 7.7** A dance studio has operated from the property for over 35 years, initially occupying just the middle part of the building, then in 2003 permission was granted to change the use of the rear part of the building from a printers to a dance studio (consent no. DC02-274). In 2010 permission was granted to change the front of the building from a photography studio into a dance studio (consent no DC09/297/COU). All consents were implemented and the whole building is now used as a dance studio. The 2010 consent was granted subject to conditions 3 and 4, (detailed in Section 3.2 above) which restrict entry to and exit from the building to the Kilbowie Road entrance, and also prevent the side doors from being opened except for emergency use or for disabled access. These conditions were added as the side doors were being used to access the dance studio and the occupant of the adjacent house had already raised concerns about noise from the existing use. It was considered at that time that the use of the Kilbowie Road entrance would be a suitable alternative to the side entrance doors and would help to address the noise issue.
- 7.8** Since the 2010 consent was granted the dance studio had operated in accordance with conditions 3 and 4. However, as a result of the Covid 19 circumstances since March 2020, the applicant has had to revise how the business operates to follow government guidance in order to protect staff and pupils. By creating separate areas and a track and trace system of registration it has been possible for the business to meet the Government guidelines and to continue to operate in difficult circumstances. This has been done by splitting the three studios within the building into completely separate areas, all with their own entrance/exit and toilets. The two side doors provide separate entrances/exits for two of the studios while the front entrance/ exit to Kilbowie Road services the third studio. This arrangement minimises interaction between staff and pupils adding extra protection and making it easier to carry out track and trace, if required. The start and finish times of the various classes have been altered to ensure there is 15 minutes between

each class to enable cleaning and ensure there is no cross-over of children being picked up and dropped off which minimises the number of people accessing the side of the building at any one time. This also means that during the short time that the side doors, subject to this application, are open, there is no music being played. The introduction of the system has allowed a reduced number of classes to be continued. The principle of this temporary arrangement is considered to be acceptable from a planning perspective provided the premises is managed as described. The applicant has proposed a period of 18 months to 2 years for the temporary relaxation of the conditions, in this occasion a period of 12 months is considered more appropriate given the planned vaccine roll-out programme.

- 7.9** The Council was made aware in September this year that the side doors were being used as an entrance/exit and the applicant was advised to cease using the doors immediately as this was in breach of the planning conditions. The applicant complied with this request and subsequently submitted the current application. Since the introduction of social-distancing requirements they have found that a safety issue has arisen. Prior to the introduction of social-distancing, parents/carers of small children (2 to 5 years old) would enter the building at the end of classes to collect their children. However, they are no longer allowed to do this and parents/ carers must collect their children from the Kilbowie Road entrance where they must maintain social distance from each other. This means that parents/ carers are spread out and may be some distance from the entrance when their child leaves the building, which is immediately next to a very busy road. The applicant makes the case that the use of the side doors made pick-ups safer as 2 parents/ carers at a time could walk up the lane to pick up their children from the side doors. The applicant states that they have always complied with conditions 3 and 4 until this and had previously only used the side doors for emergencies.

Impact on Residential Amenity

- 7.10** The occupant of the house adjacent to the site has raised concerns about the impact on their residential amenity as a result of noise coming from the dance studios due to the side doors being used. However, it is understood that the doors will only be open for a short time in between classes when music is not being played and to allow a small number of children to leave and enter the building. As explained above the applicant proposes a 15 minute gap between classes finishing and the next classes starting to minimise the number of people arriving and leaving the premises at any one time. It is therefore considered unlikely that there would be any significant impact on the neighbour's property with regard to noise. Further to this, the Council's Environmental Health Service has advised that they do not have concerns to the temporary use of the doors provided music is not playing when the doors are open and subject to the conditions as set out in section 9 below. They have advised that the use of the side doors enables the applicant to create a safer environment for staff and pupils with regard to COVID-19. It is not considered that there is an alternative solution as the use of the side doors allows the formation of entirely separate spaces inside the building with classes having access to their own individual door to and from the building which significantly minimises interaction of pupils between classes and the

applicant notes that this will minimise the risk of the virus spreading. The conditions imposed on the 2010 consent and are also proposed for the current application to ensure that noise from amplified music for example, will not adversely affect the occupiers of neighbouring property.

Other Matters Raised in Representations

- 7.11** A point of objection raised in the representation states that any concerns that the applicant has over child safety as detailed in Section 7.9 of this report stems from parents/ carers who park on the public road. They also state that the Council's Road Service had no objection or road safety concerns to the change of use applications for the use of the premises as a dance studio. It should be noted however that this current situation with regards Covid 19 did not exist when the applications for the use of the premises as a dance studio were being assessed and the issue of parents/ carers not being able to collect their children direct from the premises will not be an issue once social-distancing requirements are removed. It has also been stated that it will be difficult to regularise the position and for the applicant to return to using only the single access from Kilbowie Road once any temporary permission for the use of the side doors ends. However, it is considered that this would not be the case as the proposed condition makes it clear that the side doors must revert back to emergency/ disabled access use only once the 12 month period has lapsed and this can be monitored to ensure that it is complied with. While it is noted in the representation of objection that issues of public health such as the applicant complying with Covid 19 guidance is not a material planning consideration, the Scottish Government has provided updated legislation and guidance to planning authorities with regards responding to Covid 19 and therefore it is considered reasonable for the planning authority to consider the impact of the current government guidance with regards to this application. Such considerations do however require to be considered together with other material considerations such as impacts on residential amenity as discussed above and every case is considered on its own merits.
- 7.12** A significant number of representations supporting the application have been received. These are primarily from the parents/ carers of children who attend classes at the dance studio. The points raised in the representations focus mainly on the safety aspect of the proposal with regard to reducing the spread of COVID 19 and the applicant's changes are welcomed as they consider that they have created a safe environment for their children. The operational changes introduced had allowed the applicant to restart classes and parents/ carers have welcomed this as it benefits the physical and mental health of their children.

8. CONCLUSION

- 8.1** Overall, it is considered that the proposed temporary use of the side doors, if managed in the way that the applicant proposes and subject to the conditions below, would not have a significant impact on the amenity of the neighbouring house or other residential properties with regard to noise. It is considered

that this temporary arrangement which is required under unique circumstances is acceptable and would allow a business to continue to operate whilst allowing children and young people to take part in dance classes. The use of the side doors will be required for a limited time only and therefore a condition allowing the doors to be used for a period of 12 months is considered reasonable.

9. CONDITIONS

- 1. The two entrance doors on the side of the building may be used for access to and egress from the building for a period of 12 months from the date of this consent. Thereafter, the side doors shall revert to emergency and disabled access use only and access to/egress from the building shall be via the Kilbowie Road entrance only, unless as may otherwise agreed in writing by the Planning Authority.**
- 2. No amplified music, speech or singing shall take place within the dance studio while the side entrance doors are open.**
- 3. Within one month of the date of this consent, any external doors that do not have a self-closing mechanism shall have one fitted and thereafter be maintained in working order.**
- 4. There shall be no less than 15 minutes between classes finishing and starting at the premises unless as may otherwise be agreed in writing by the Planning Authority.**
- 5. The LAeq (5min) level measured 1 metre outside a window in any adjacent residential property with amplified music, speech and singing taking place shall show no increase when compared with the same position, under the same conditions and during a comparable period with no amplified music, speech or singing taking place.**
- 6. The LA10 (5min) in the 1/3 octave bands from 40 to 160 Hertz measured 1 metre outside a room in any adjacent residential property, with amplified music, speech or singing taking place shall show no increase when compared with the representative LA90 (5min) level in the 1/3 octave bands from 40 to 160 Hertz measured from the same position, under the same conditions and during a comparable period with no amplified music, speech or singing taking place.**

Peter Hessett
Chief Officer - Regulatory and Regeneration
Date: 13 January 2021

Person to Contact: Pamela Clifford, Planning, Building Standards and Environmental Health Manager
Email: Pamela.Clifford@west-dunbarton.gov.uk

Appendix: None

Background Papers:

1. Application documents and plans
2. West Dunbartonshire Local Plan 2010
3. West Dunbartonshire LDP - Proposed Plan
4. West Dunbartonshire LDP - Proposed Plan 2
5. Consultation response
6. Representations

Wards affected: Ward 6 (Clydebank Waterfront)