

OUR REF FCM.RHS.MAL96.1

YOUR REF LRB/10/0689/PP

Bill Walkinshaw
 Head of Democratic Services
 East Ayrshire Council
 Council Headquarters
 London Road
 Kilmarnock
 KA3 7BU

CORPORATE SUPPORT	
- 8 JUL 2011	
TO	Initials
Acknowledged	
Dealt with	
Copies to:	

7 July 2011

Dear Mr Walkinshaw

**65 HIGH STREET, STEWARTON
 REVIEW OF APPOINTED OFFICER'S DECISION TO REFUSE PERMISSION FOR HOT FOOD
 TAKEAWAY
 REQUEST FOR FURTHER WRITTEN SUBMISSIONS**

Thank you for letter dated 24 June 2011 requesting further written submissions in relation to the above-mentioned application.

1. Bin Arrangements

As stated in Mr Malik's application for planning permission (Document 1 of the bundle of authorities), rubbish will be stored in 2 x 240 Litre wheeled bins at the rear of the Premises. These bins are standard Local Authority "wheelie bins", and can be viewed by the Local Review Body during their site visit. Rubbish will be uplifted weekly in accordance with an Agreement for Uplift of Commercial Refuse which has been entered into with the Council's Department of Neighbourhood Services.

Mr Malik has been asked to provide further details regarding arrangements for a secure bin storage area, including information on the method of access and egress thereto. Mr Malik has advised that there are two potential secure storage areas for the bins:

- 1.1 A brick outhouse at the rear of the Premises, shown on the attached plan ("Plan A"). Mr Malik currently allows his neighbour, Mr Dempster, to occupy this outhouse on a gratuitous basis. Access and egress to the outhouse is from the rear of the shop, and over an area of common ground. Storage of the bins in this brick outhouse will ensure that neighbouring proprietors will be unable to see the bins from overlooking upstairs windows.

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1.2 An enclosed storage area noted on the attached plan ("Plan B"). A metal shutter separates this storage area from the Street, and a door provides direct access to and from the shop.

Mr Malik has clarified that he is more than happy for the Local Review Body to view both of these areas during their site visit.

One further item of evidence in relation to the bins concerns the volume of rubbish anticipated in conjunction with the use of the Premises as a fast food take-away. Minimal food waste will be generated on the site. Food to be sold will predominantly arrive in either chilled or frozen form – there will be no food waste such as chicken carcasses to be disposed of from the Premises. Cardboard packaging from the chilled and frozen items will be stored behind the shop, and uplifted weekly by the Local Authority. Any oil waste is to be stored in drums for collection by a private contractor.

Again, it should be emphasised that the Local Review Body has the power to place conditions on the storage of the bins, should it feel that such a condition would be necessary.

2. Ventilation / Extract Louvre

In relation to the proposed ventilation system for the Premises, the applicant has been asked to submit further information on why an extract louver system has been proposed, rather than use of a conventional flue device.

Before submitting his present application, Mr Malik took advice from the Council's planning department about the form of a new flue for the proposed takeaway. Craig Iles, Principal Planning Officer, wrote to Mr Malik (Document 4), to say that the Planning Department

"would not be supportive of a standard metal flue extraction arrangement at the front or side of the property on visual amenity grounds".

In other words, a metal flue pipe on the side of the proposed takeaway would be an eyesore. When he was consulted on the proposals for the louver system in the present application, Craig Iles wrote on 15 May 2010 (document 9):

"In terms of visual amenity, I have no particular concerns about the proposed louver type system as this is not an unusual feature on a building and I note that the existing property has such features, albeit of a different size. Should you look to a more traditional flue system, I would highlight my early concerns over the visual prominence of such a system at this highly visible corner location."

However, the question for the Local Review Body is not whether some other flue system would be suitable, but whether the proposed louver system is suitable. There are three items of evidence as to its acceptability:

- Craig Iles, the Council's planning officer, considered it was acceptable in visual terms, especially since it was only a slightly larger version of what already existed

- The evidence from Mr Speirs, the ventilation engineer, is that it will be suitable. It has been designed to address concerns relating to odour, noise, and visual impact. As Mr Speirs has advised in his statement (Document 7), the system to be installed will emit hot air and some moisture but no odour, so long as it is well maintained.
- William Gilchrist of the Council's Environmental Health Department has also advised that the Department would have no objection regarding odour should this installation be properly maintained (Document 11).

Finally, if the system failed to be maintained sufficiently and began to cause a nuisance, the Council has the power to investigate and require the abatement of the nuisance at any time under the Environmental Protection Act 1990. If such action were taken, it is likely to mean the takeaway would be shut down. Mr Malik is sufficiently confident in the effectiveness of the proposed flue that he is willing to make the investment in it.


Yours sincerely

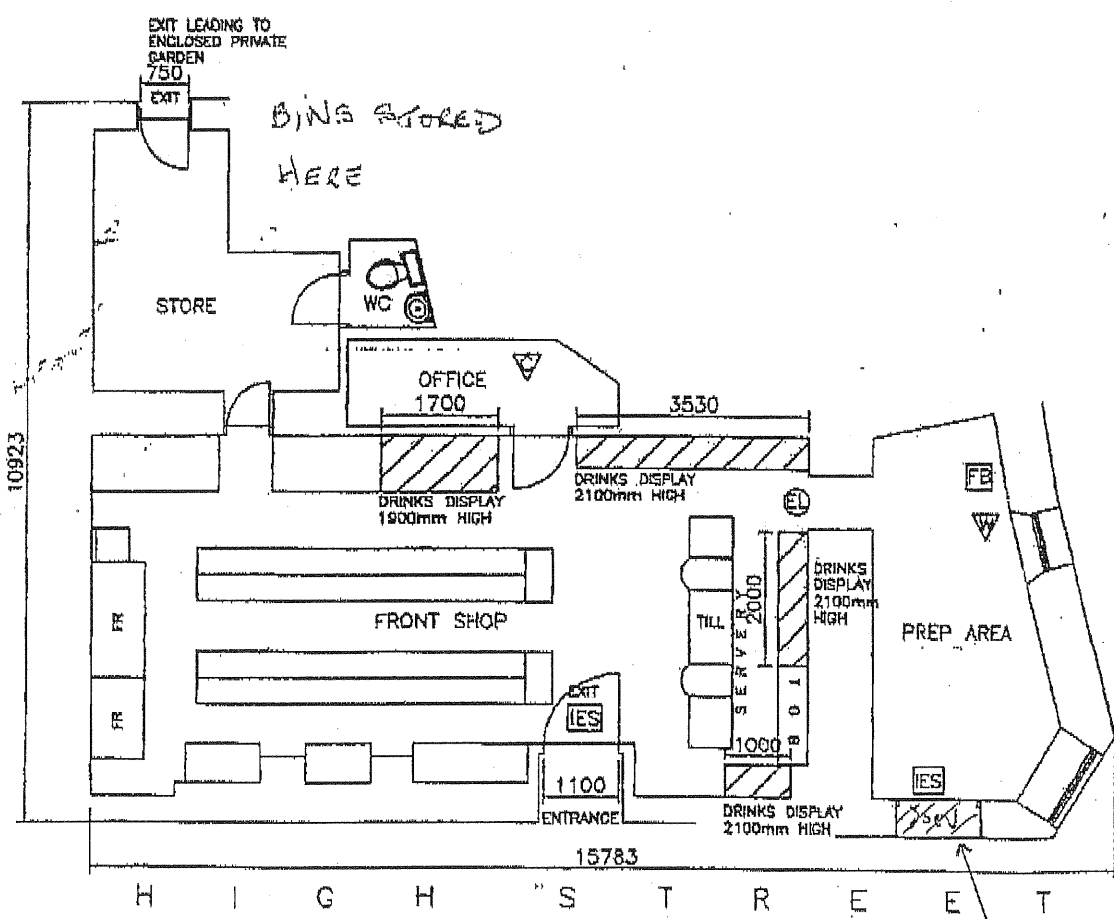
RP Robert Seaton
Associate
On behalf of Brodies LLP
Direct Line
E-Mail

CC. - Head of Planning & Economic Development
- Head of Legal, Procurement & Regulatory Services (Environmental Health Service)

plan B - referred to in the attached response to request for further written submissions dated 7 July 2011

(REF: 10/0689/PA)


 East Ayrshire
 Department of Neighbourhood
 Planning & Economic Development Services
 THIS IS THE PLAN REFUSED IN REFUSAL OF
 APPLICATION NO: 10/0689/PA
 Dated of Even Date
 Date: 26 JAN 2011
 Signed: *Alan Nash*
 Head of Planning & Economic
 Development



GROUND FLOOR PLAN 1/100

This is Street
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Deput