

**THE HIGHLAND COUNCIL**

**CAITHNESS SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS COMMITTEE – 13 September 2011**

Agenda Item	<b>3.8</b>
Report No	<b>PLC/045/11</b>

**11/01996/FUL : Mr Mohammed Shuaab**  
**54 High Street, Alness**

**Report by Area Planning Manager**

**SUMMARY**

**Description :** Change of use to café to include hot food takeaway

**Recommendation - GRANT**

**Ward :** 7 – Cromarty Firth

**Development category :** Local Development

**Pre-determination hearing :** Not required

**Reason referred to Committee :** Objection from Alness Community Council.

**1. PROPOSED DEVELOPMENT**

- 1.1 The application proposes to change the use of the existing café to allow for the sale of hot food for takeway. No changes are proposed to the existing building.
- 1.2 Pre-application advice was given to the applicant advising that a formal application for planning permission is required for hot food takeaway use as the existing permission only covers café/restaurant use for consumption of food and drink on the premises.
- 1.3 No changes are proposed to servicing of the property from High Street. The building has a frontage onto High Street and pedestrian access exists between the rear of the property and the main town centre public car park to the south.
- 1.4 No supporting documents have been submitted with the application.
- 1.5 No variations have been made to the application since it was submitted.

**2. SITE DESCRIPTION**

- 2.1 54 High Street is an established ground floor café lying on the south side of the public road in the heart of Alness town centre. It is contained between a charity shop and a newsagent and lies directly opposite the Royal Bank of Scotland. Surrounding uses are predominantly commercial, with a few properties having upper floor flats.

To the rear (or south) of the property a dental surgery separates the site from a large public car park which lies immediately adjacent to the north railway line.

### **3. PLANNING HISTORY**

- 3.1 02/00546/FULRC Change of use and alterations to form coffee shop with flat above - Planning Permission granted 18.09.2002.

### **4. PUBLIC PARTICIPATION**

- 4.1 Advertised : Schedule 3 and Neighbour Notification

Representation deadline : 22 July 2011

Timeous representations : 2 (Against)

Late representations : 0

- 4.2 Material considerations raised are summarised as follows:

- Alness already has a large number of takeaways (over 10) and to have another one would constitute overprovision;
- Tourism would be affected as visitors are attracted by the wide range of businesses and another hot food takeaway would be detrimental to the variety of businesses offered within the town centre;
- The proposal will generate smell and extra rubbish on High Street.

- 4.3 All letters of representation can be viewed online [www.highland.gov.uk](http://www.highland.gov.uk), at the Area Planning Office and for Councillors, will be available for inspection immediately prior to the Committee Meeting.

### **5. CONSULTATIONS**

- 5.1 **TECS (Transport):** No objections.

- 5.2 **TECS (Environmental Health):** No objections. No complaints have been received about the premises and it is considered that any increase in business from takeaway activities would have a negligible impact on neighbouring premises. If the proposal is to change the type of catering to something like a fish and chip shop or Indian or Chinese restaurant, details would be required of the proposed ventilation and filtration system.

- 5.3 **Alness Community Council:** Objects on the basis that there are already enough fast food shops on Alness High Street. Nine outlets are listed along with reference to The Station and Commercial Hotels which do lunches and bar suppers.

### **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

- 6.1 **Highland Structure Plan 2001**

Policy G1            Conformity with Strategy

Policy G2            Design for Sustainability

Policy R5            Town Centre Shopping

## 6.2    **Ross & Cromarty East Local Plan**

Policy C1            Alness Settlement – town centre

## 7.    **OTHER MATERIAL CONSIDERATIONS**

### 7.1    **Draft Highland Wide Local Development Plan**

Policy 29 Sustainable Design

Policy 35 Settlement Development Areas

Policy 41 Retail Development

### 7.2    **Highland Council Supplementary Planning Policy Guidance**

Not applicable

### 7.3    **Scottish Government Planning Policy and Guidance**

Scottish Planning Policy

## 8.    **PLANNING APPRAISAL**

8.1    Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2    This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

### 8.3    **Development Plan Policy Assessment**

There are no policy objections as the application site is an established café (Class 3 use) located within the heart of the commercial area in Alness High Street. The adopted Local Plan acknowledges the importance of improving the viability of the shopping centre and encouraging the addition, renovation, modernisation or replacement of floor space needed to accommodate changing shopping patterns. There is a presumption against further ground floor offices and other non-retail uses in the main shopping area where they would interrupt continuous retail frontages, however there is no specific guidance with regard to the variety of retail uses which includes hot food takeaways. This reflects Policy R5 in the approved Structure Plan and the section on town centres and retailing in Scottish Planning Policy.

#### 8.4 **Amenity**

There are no technical difficulties associated with the proposal with no objections from TECS (Transport) and TECS (Environmental Health). As an existing café there are established cooking facilities and extract flues which emerge at the rear of the building. No change is proposed to this arrangement. TECS (Environmental Health) have asked that if there is a change in catering type proposed (eg fish & chips, Indian or Chinese) then details of the proposed ventilation and filtration system should be submitted for approval prior to such operations taking place.

#### 8.5 **Public concerns**

Two third party representations have been received and Alness Community Council also objects on the basis of the already high number of takeaway outlets on the High Street. Concern is expressed that this will exacerbate existing overprovision, thereby prejudicing the variety of businesses in the town centre to the detriment of local people and tourism. It is also suggested that problems relating to litter and odour will be increased.

8.6 In response, it is submitted that Planning Permission was granted in 2002 for the change of use of a house to a café and it has operated as such under various different operators since that time. It is therefore an established retail outlet of hot food and drink and falls within Class 3 (Food and Drink) of the Schedule to the Town and Country Planning (Use Classes)(Scotland) Order 1997. This allows for the sale of food and drink for consumption on the premises. The application merely seeks to extend the use to allow the sale of food for consumption off the premises and therefore is not creating an additional food outlet on High Street but diversifying an established business. This is considered appropriate within a commercial area and it is possible to require the applicant to provide a litter bin to address any particular concerns over increased litter.

#### 8.7 **Matters to be secured by Section 75 Agreement**

Not applicable

### 9. **CONCLUSION**

9.1 As stated above, the site is an established café located within the town centre commercial area identified in the adopted Local Plan. Notwithstanding this, Alness Community Council and two other parties have objected on the basis that they believe there is already sufficient provision of hot food takeaways on Alness High Street. It should be noted however that the town centre remains relatively vibrant and there is a wide range of different retailing and other commercial uses along the length of High Street. It is therefore submitted that there is no substance to claims that the number of existing outlets has harmed the integrity or amenity of the town centre and there are therefore no material planning grounds for refusing the application. There are no technical objections and any potential odour nuisance can be addressed by upgrading the existing filtration system. The applicant will be required to provide a litter bin and maintain the area around the site in a litter free condition.

It is therefore considered that permission should be granted subject to the conditions listed below.

## 10. RECOMMENDATION

**Action required before decision issued** N

Notification to Scottish Ministers N

Notification to Historic Scotland N

Conclusion of Section 75 Agreement N

Revocation of previous permission N

**Subject to the above**, it is recommended the application be **Granted** subject to the following conditions and reasons / notes to applicant:

1. Prior to first use of the premises for hot food takeaways, full details of the proposed ventilation and filtration system shall be submitted for the written approval of the Planning Authority in consultation with the Environmental Health Authority. The system shall be designed and installed to suppress and disperse fumes and odour created from the catering operations proposed. Equipment shall thereafter be upgraded/installed as approved in full working order to the satisfaction of the Environmental Health Authority prior to first use of the premises for hot food takeaway use, and maintained as such in perpetuity.

**Reason** : In order to reduce the risk of odour nuisance.

2. Prior to first use of the premises for hot food takeaways, a litter bin shall be provided and retained outside the takeaway facility and the operator shall ensure that the area around the property is maintained in a tidy and litter free condition to the satisfaction of the Planning Authority in consultation with the Environmental Health Authority.

**Reason** : In order to safeguard the established amenity of the area.

### Footnote

#### **Informative note regarding the time limit for the implementation of this**

**planning permission:** In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended), the development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

**Statutory Requirements:** The following are statutory requirements of the Town and Country Planning (Scotland) Act 1997 (as amended). Failure to meet their respective terms represents a breach of planning law and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development (NID) in accordance with Section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority prior to work commencing on site. Furthermore, work must not commence until the notice has been acknowledged in writing by the Planning Authority. From the date of acknowledgement, the Site Notice attached to it shall be posted in a publicly accessible part of the site until the development is completed.

2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to the Planning Authority.

**Conditions:** Your attention is drawn to the conditions attached to this permission. Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to meet these conditions may invalidate your permission or result in formal enforcement action.

Signature: Allan Todd  
Designation: pp Area Planning Manager North  
Author: Dorothy Stott  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 – Location Plan

## Appendix – Letters of Representation

Name	Address	Date Received	For/Against
June MacDonald	36 Redwood Crescent, Inverness	19.07.2011	Against
Paul Davidson	66 High Street, Alness IV17 0SG	20.07.2011	Against



11/01996/FUL  
 Change of use from cafe to hot food takeway at  
 54 High Street, Alness IV17 0SG

Mr Mohammed Shuaab  
 35 High Street  
 Alness  
 IV17 0PT