

## THE HIGHLAND COUNCIL

### CAITHNESS, SUTHERLAND & EASTER ROSS PLANNING APPLICATIONS AND REVIEW COMMITTEE – 23 June 2009

Agenda Item	3.6
Report No	34/09

1. 07/00062/FULSU - Conversion of bookmakers to form ethnic takeaway/restaurant
2. 08/00063/FULSU - Conversion of bookmakers to form ethnic takeaway/restaurant at Clynebank Racing Premises, Fountain Square, Brora

#### Report by Area Planning and Building Standards Manager

#### SUMMARY

This report relates to two separate applications to convert the former Clynebank Racing Premises, Fountain Square, Brora to a takeaway/restaurant. The second application shows a larger application site that also incorporates both the former butcher's shop on Fountain Square and an area to the rear of 10 Gower Street that would house a gas tank and refuse bins.

These applications are being reported to Committee because of a technical objection from Environmental Health. Two public objections were received in relation to the original application and 5 objections were lodged in relation to the second application.

**The Recommendation is to REFUSE planning permission** in both cases.

Ward Number 5 - East Sutherland and Edderton

Applicants - Mr and Mrs Grant

#### 1. PROPOSAL

- 1.1 Both these applications centre on the former Clynebank Racing Premises on Fountain Square, Brora. Application 2 also incorporates the adjacent former butcher's shop and an area of land to the rear of 10 Gower Street which is accessed from the lane running down the north east of the building. The two units form part of the larger Braes Hotel building which occupies a prominent position on Fountain Square. Both units are currently vacant and somewhat run down.
- 1.2 The applicant's agent has stated that the intended opening hours would be Monday to Thursday 12 noon - 2pm and 5pm -10pm, Friday 12 noon - 2 pm and 5 pm - midnight, Saturday 12 noon - midnight and Sunday noon until 10pm.
- 1.3 Parking restrictions prevent stopping outside the building on the main road from 8am-6pm but parking is available on the lane and in the nearby Gower Street car park.

#### 1.4 Application 1 - 07/00062/FULSU

This application seeks detailed consent for the conversion of the former Clynebank Racing Premises to a takeaway and restaurant. The property would be accessed from the existing door on Fountain Square. The proposed accommodation includes a small sitting and waiting area and kitchen along with a toilet, pot wash and kitchen store and preparation area at the rear.

The application does not include details of any commercial refuse storage. It also fails to account properly for ventilation extraction. An extraction/infiltration system is shown on the plans but the extractor grille shown on the front elevation does not align with the associated duct shown on the floor plan. The applicants have been asked to clarify these matters but have not done so.

This application has effectively been superseded by Application 2 but has not been formally withdrawn.

#### 1.5 Application 2 - 08/00063/FULSU

This application also seeks permission for a change of use of the Clynebank Racing Premises to form a takeaway and restaurant. However, the application site is extended to include the former butcher's shop which is adjacent to the ex-bookmakers and land to the rear of 10 Gower Street.

The plans show an opening being formed to allow access to the former butcher's shop from the former bookmakers. This area would be used to provide additional seating for the restaurant and customer toilets. The land to the rear of 10 Gower Street, which is separated from the rest of the application site by the hotel building, would be used to store commercial refuse bins and a gas tank for the takeaway/restaurant. This area would be screened off by a 1.8m vertically clad fence.

A ventilation system incorporating carbon filter technology is proposed.

## 2. **PLANNING HISTORY**

2.1 None known.

## 3. **PUBLIC PARTICIPATION**

3.1 Two representations have been received for Application 1 – 07/00062/FULSU and five have been received for Application 2 – 08/00063/FULSU.

Application 1 – 07/00062/FULSU

Objections relate to the following:

- Smell
- Fire safety
- Refuse storage

- Drainage
- Parking
- Ventilation extraction

Application 2 – 08/00063/FULSU

Additional points relate to:

- Separation between the restaurant and the proposed bin area
- Unsuitability of the adjoining lane for deliveries
- Location of the gas tank and bin area
- Existing provision of restaurants in the area
- The identity of the applicants, the staff and their suppliers

3.2 The letters of representation are available in the Area Office and will be available at the Committee meeting. The names of those making representation are listed at the end of this report.

#### **4. CONSULTATIONS**

##### **4.1 Brora Community Council**

The Community Council has not formally objected to either application but has raised some concerns in relation to each proposal:

Application 1 – 07/00062/FULSU

- There is no information on waste management or the location of bins.
- The lane is already too congested to cope with further parking.

Application 2 – 08/00063/FULSU

- There is still insufficient information provided with the application.

##### **4.2 Internal Consultees**

###### **Environmental Health**

Application 1 – 07/00062/FULSU

Recommends refusal -

- The location of the kitchen store/prep room and the kitchen means that food would be carried through the ventilated lobby between the two rooms. This entirely negates the value of the ventilated lobby and exposes the food to the risk of contamination.
- The ventilation extraction system is inadequate and unsuitable for a commercial kitchen.

- There is no provision for ventilation extraction in either the food prep room or the pot wash room. These rooms would both have sinks which would generate considerable water vapour. If the vapour has no means of escape this would cause condensation and mould which is not acceptable in food rooms.
- Refuse and waste cannot be located within the premises as they would be a source of contamination and may attract pests.

Application 2 – 08/00063/FULSU

Recommends refusal -

- The proposal will give rise to odour problems and be detrimental to the amenity of the area.
- The carbon filter technology proposed for ventilation extraction would not prevent a smell nuisance.

The Environmental Health officer has indicated that it would not be acceptable for the premises to operate after 11 pm.

In the event that Members are minded to approve the application then an extensive list of requirements is proposed to be imposed by way of conditions.

### **Area Roads and Community Works Manager**

No objection to either application.

#### **4.3 External Consultees**

##### **Scottish Water**

No objection to either application.

#### **5. POLICY**

5.1 The following policies are relevant to the assessment of the proposals:

##### **Highland Structure Plan**

- G2 Design for Sustainability

##### **South and East Sutherland Local Plan**

- Brora Village Centre policy S1.2
- Brora Special Uses Policy S5.18 (a)

##### **Deposit Draft Sutherland Local Plan**

- Policy 1

The proposal also requires to be assessed against Scottish Planning Policy (SPP) Parts 1 & 2.

## 6. PLANNING APPRAISAL

- 6.1 **Determining issues** – 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.
- 6.2 The proposal requires to be assessed against the appropriate policies of the Development Plan, supplementary guidance and National Planning Policy and Guidelines as referred to in the Policy section. In particular, the proposal requires detailed assessment of the following fundamental issues:
- whether the principle of development is appropriate in terms of policy
  - whether the layout of development is appropriate
  - the impact on the amenity of the area and residents
  - other material issues raised by the objectors
- 6.3 The applications propose the re-use of a vacant shop unit in the commercial centre of Brora. Application 1 relates solely to the former bookmakers while Application 2 covers the former bookmakers, adjoining former butchers and land to the rear of 10 Gower Street. **The revitalisation and redevelopment of this village centre site is to be welcomed in principle but both applications give cause for concern in respect of their detail.**
- 6.4 **Policy** - The application site is within a mixed use area that includes residential, commercial and retail uses. The Environmental Health officer is not satisfied that either proposal provides an adequate technical solution to satisfactorily mitigate the effects of the smells associated with a takeaway and restaurant. Furthermore, waste storage remains a cause for concern. Application 1 provided no information on the subject and the separation between the restaurant and the bin area that Application 2 proposes suggests that there is the potential for rubbish to pile up in the restaurant or on the street. In my assessment such a development in this location would have a significant and detrimental impact on the individual and community residential amenity of the area and is therefore contrary to Highland Structure Plan Policy G2. Furthermore the proposals fail to demonstrate sensitive siting which is also a requirement of Policy G2.
- 6.5 Brora Village Centre Policy S1.2 and Brora Special Uses policy S5.18 (a) of the South East Sutherland Local Plan support environmental improvements including the re-use of vacant buildings. The site falls within the Brora Settlement Development Area (SDA) identified in the Deposit Draft Sutherland Local Plan. However, proposals within the SDA that do not accord with Structure Plan Policy G2 are considered to be contrary to Policy 1 of the Deposit Draft Local Plan.

- 6.6 **Third party representations** - A number of objections have been raised in representations in relation to both applications. A principal concern is the effect of cooking smells on the hotel and the wider area. This is a concern shared by the Environmental Health officer who has stated that he has no confidence that the ventilation extraction proposals will satisfactorily mitigate smell problems associated with the proposed development. His suggestion that the system be ducted above ridge level has proved unworkable as the owner of the upper part of the building will not give his consent.
- 6.7 Representations on Application 1 express concern about the lack of information on waste storage. This point is also raised by Environmental Health and Brora Community Council in relation to Application 1. Application 2 attempts to tackle this problem by providing a bin area at the rear of 10 Gower Street. While this is more acceptable, carrying rubbish from the restaurant down the lane is likely to lead to mess and during busy periods there is the potential for waste to pile up inside the restaurant.
- 6.8 The issues of parking and the ability of the adjoining lane to cope with the additional demands of regular supplies etc are also raised in the representations. Members will note that the Roads Authority has not objected to the proposals. Parking is available at the Gower Street car park.
- 6.9 The representations also raise concerns about drainage but Scottish Water has not objected to the proposal. Additional concerns relate to the potential for the proposed gas tank and bins to block a fire exit from the hotel and the means of connecting the gas tank to the restaurant. The gas tank and bins will be off the street in a screened off area and the agent has indicated that the gas pipes will run under the adjoining lane.
- 6.10 Members will note that comments made in relation to Application 2 regarding the existing provision of restaurants and the suggestion that the applicants, their staff and their suppliers may not be local are not material considerations. In addition, issues related to compliance with fire regulations is an issue that will primarily be dealt with at Building Warrant stage
- 6.11 In my view the proposal is unacceptable in terms of its siting and the impact it would have on the amenity of the area. The applicants have failed to adequately demonstrate to the satisfaction of the Environmental Health Authority that the ventilation proposals of either application will prevent cooking smells having an adverse impact on individual and community residential amenity. To approve the application on this basis would set a dangerous and unwelcome precedent.

## **7. CONCLUSION**

- 7.1 Both applications, as submitted, propose a development that is unsuitable in a mixed use area that includes a number of residential properties. The Environmental Health Authority has stated their concerns regarding both applications, neither of which provides satisfactory ventilation extraction proposals.

If either proposal were to go ahead it is likely that the smell and potential waste associated with the development would detract significantly from the amenity of both immediate neighbours and the wider area. Both proposals are therefore considered to be contrary to Structure Plan Policy G2 which requires that developments demonstrate sensitive siting and take account of the amenity of individuals and the community. In my view the approval of either of these applications would set an unwelcome precedent in this important village centre area. The applications are therefore considered to be unacceptable and are recommended for refusal.

## **RECOMMENDATION**

Applications 1 & 2 – 07/00062/FULSU and 08/00063/FULSU

### **Refuse Planning Permission for the following reasons:**

1. The proposed ventilation extraction system is not considered sufficient to prevent smell nuisance and the proposed development will therefore have a significantly detrimental impact on individual and community residential amenity contrary to Highland Structure Plan Policy G2 Design for Sustainability.
2. Waste and refuse provision is inadequate and is not considered to accord with Highland Structure Plan Policy G2 as it is likely to significantly prejudice individual and community residential amenity by giving rise to future waste, refuse and smell complaints.
3. The proposal does not demonstrate sensitive siting in keeping with local character as required by Highland Structure Plan Policy G2 Design for Sustainability.
4. Approval of the proposal would set a dangerous and unwelcome precedent making it difficult to refuse similar applications in the future.

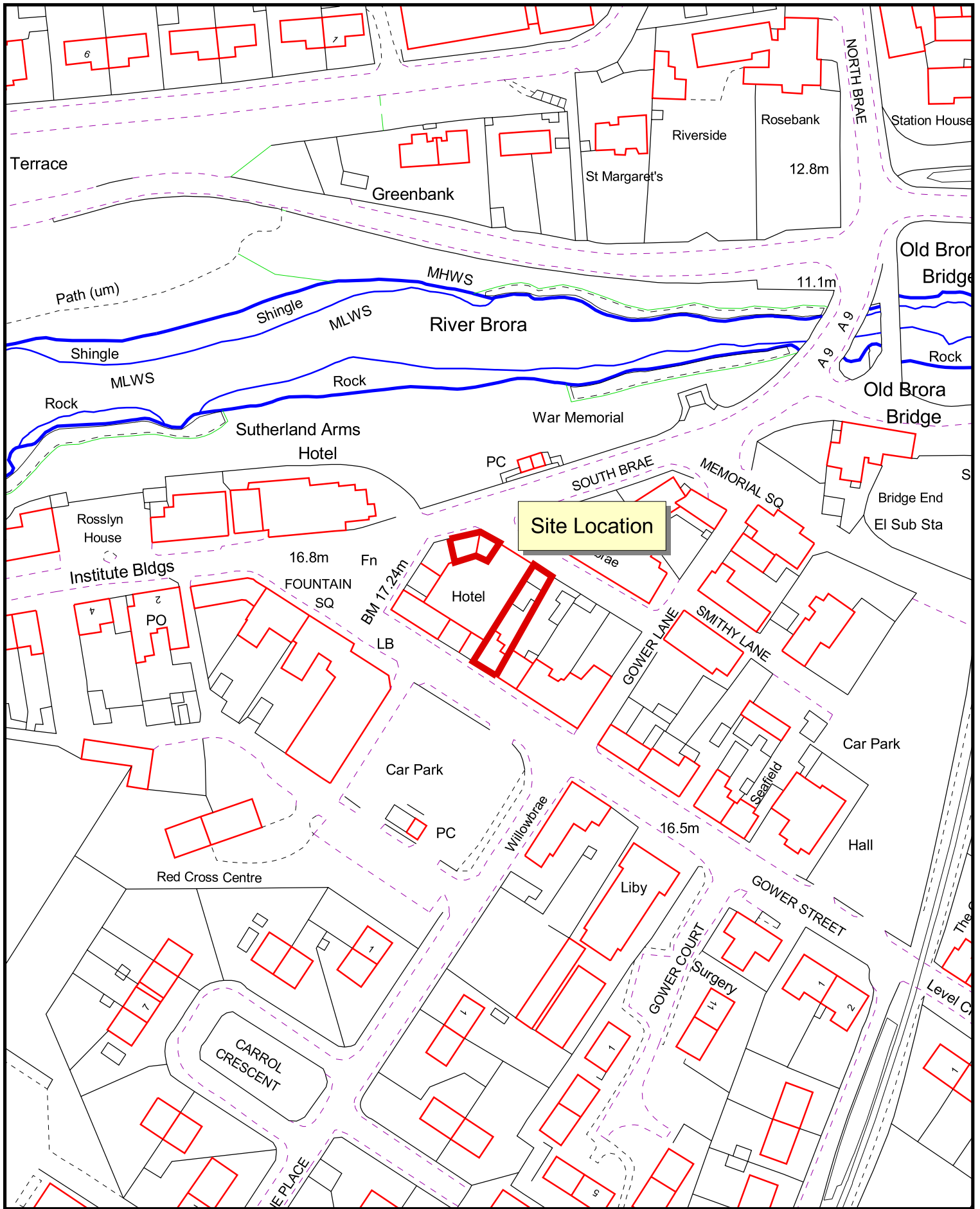
Signature: Allan J Todd

Designation: Area Planning & Building Standards Manager

Author: Lisa MacKenzie (01408 635219)

Background Papers: As referred to in the report above and case files reference number 07/00062/FULSU and 08/00063/FULSU

Date: 11 June 2009



07/00062/FULSU & 08/00063/FULSU  
 Conversion of bookmakers to form ethnic takeaway / restaurant at  
 Clynebank Racing Premises, Fountain Square, Brora.

Sandy & Anne Grant  
 per W A MacDonald MCIAT  
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 Dunedin House  
 Ballifeary Lane  
 Inverness.

Date: 11 June 2009

SUPPLIED BY THE HIGHLAND COUNCIL

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