



Case reference	NA-HLD-087
Application details	Partial change of use from café (Class 3) to hair salon (Class 2) and installation of canopy to cafe
Site address	12 Henderson Road, Inverness
Applicant Determining Authority Local Authority Area	David MacDougall The Highland Council
Reason(s) for notification	Objection by government agency (HSE)
Representations	NIL
Date notified to Ministers Date of recommendation	27 August 2020 30 September 2020
Decision / recommendation	Clear

Description of Proposal and Site:

- This application seeks full planning permission for a partial change of use of a building from a café to a hair salon. Permission is also sought for an external canopy to the building.
- The application relates to an existing transport café premises, of Café V8, within an Industrial Estate in Inverness.
- The Highland Council agreed under delegated powers that it is minded to grant permission for the development contrary to the advice of the Health and Safety Executive.
- Planning permission was previously granted (16/04035/FUL) for an extended dining area and barbers premises, which has now lapsed.

EIA Development:

- The Highland Council delegated report for the application sets out that the development is not considered to be EIA development.
- The site area is below the threshold for Schedule 2 development. Therefore the Council's view that no EIA is required is reasonable.

Consultations and Representations:

- The Health and Safety Executive advised Highland Council against the granting of planning permission due to the proximity of the site to the 'Development Proximity Zone' of the Inverness Terminal associated with Certas Energy UK. This is a major hazard site.
- Following Notification to PAD, HSE was consulted to verify whether they maintained their objection. HSE confirm that after careful consideration HSE does not recommend that Scottish Ministers call in this case for their own determination. This case, on its own merits, does not meet the exceptionally high test HSE sets in its published criteria for decisions on whether to recommend call-in.
- There were no other representations lodged for this application by any consultees or third parties.

Assessment:

1. The planning application has been notified to Scottish Ministers because Highland Council is minded to grant planning permission for the proposed development against the advice of the Health and Safety Executive (HSE), due to the site being located within the Development Proximity Zone (DPZ), a major hazard site.
2. The Highland Council enquired of HSE whether any weight had been given to the fact that the site is already in operation as a cafe, and the hairdresser element could have a lesser impact, as it could accommodate less people. HSE maintained the position that there are sufficient reasons, on safety grounds, to advise against granting planning permission, as the proposals involves a development which would be occupied by the public, and is located within the DPZ. HSE advice to the council is not affected by any existing use or previous permissions which the site may have, although it is recognised that there may be further factors which the council would take into consideration in assessing the proposal.
3. Highland Council consider that the proposed change of use from a café to a hair salon would be a less vulnerable use in terms of the DPZ, as the current dining room can seat 32 people compared to the hairdresser which can accommodate approx. 8 people. The council consider that the proposal would be in keeping with the area and is in accordance with the provisions of the development plan and that there are no other material considerations which would warrant the refusal of the application.
4. Following notification to Ministers, HSE provided confirmation that they do not consider that the case reaches the very high threshold which would warrant the call-in of the application. HSE suggest that the council may wish to consider imposing a condition on the planning permission to limit the number of customers at the hair salon in order to ensure such a reduction in the number of people at risk. PAD note there is already a significant reduction in the number of persons that can be accommodated at the hair salon compared to the café dining room, but will bring this to the council's attention for their consideration.

5. As the reason triggering notification to Scottish Ministers was the HSE objection, and HSE do not recommend call-in, It therefore appears appropriate for Ministers to clear back the case to Highland Council for its own determination.

Recommendation:

- Clear