

APPENDIX 7

EAST AYRSHIRE COUNCIL

REPORT OF HANDLING

Application Number : 10/0058/PP

Applicant Name: Mr Darren Young

Development : Change of use from B.T.exchange unit to internet cafe and formation of a service layby

Location : Former BT Exchange Unit
Polwarth Street
Galston
East Ayrshire
KA4 8PB

Type : Planning Permission

1. Development Description

Change of use from B.T.exchange unit to internet cafe and formation of a service layby

2. Site Description

The site is located to the north of Galston, across the River Irvine. The site is bounded by the River Irvine to the south with various dwellings and commercial units on the opposite bank, to the north and west by a large field and to the east by Polwarth Street. To the south east of the site is the Galston Bridge, a B listed structure and to the north east a Sycamore Tree protected by Tree Preservation Order TPO/6/1987. The existing building on site is a single storey building accessed via steps at the west due to the high basecourse which in itself was likely to have been required due to the close proximity to the river and flood levels. The building is a former BT exchange unit finished with a slate roof and white painted render walls. The site sits at a lower level than the adjacent road with a height difference of about 1.2 metres. There is no formal existing vehicle access from the road to the unit.

3. Representations Summary

One letter of objection has been submitted by the Community Council, details of which are below.

The Area proposed for an Internet Cafe' is inappropriate as is on the edge of a very busy main road with a dangerous access. The siting of this Service Lay By is extremely dangerous as traffic going out of Galston would not see traffic exiting this lay by because of the blind summit of the bridge.

The applicant has identified that sightline standards to meet with the Roads Division requirements are achievable at the site exit. Notwithstanding this, given the close proximity to the hump back bridge, it is considered that achieving the required sightlines would be difficult without significant change to the ground levels at the site exit and it should be noted that the Roads Division do not consider they are achievable.

The Existing footpath would be moved and this is the main footpath from Galston to Loudoun Academy and it would not be appropriate to risk the lives of schoolchildren.

Whilst the footpath will be altered, it is not removed therefore it is not considered that the move of the footpath will risk the lives of school children.

Any traffic exiting this proposed lay by could not turn right as this part of the road is low lying and would not be seen by drivers exiting Galston.

In response to this issue the Roads Division recommended a no right turn sign which the applicant is prepared to provide however this is not enforceable as it would be a private sign within the site.

This plan is not in keeping with the East Ayrshire Local Plan and is outwith the town which has other premises within the town that would be more suitable for this type of venture.

The Community Council is correct in advising that the proposal is contrary to a number of policies of the East Ayrshire Local Plan.

4. Consultations Summary

Development Planning And Regeneration – see section 5.

Environmental Health – no objections subject to standard comments.

Roads And Transportation – no objections subject to the provision of sightlines of 2.5m by 90m, a no right turn sign, hard paving of the private access road and appropriate give way markings. They have subsequently advised that the sightline standard cannot be achieved at this location and this should be considered as a recommendation for refusal.

Roads And Transportation Division Flooding Section – no objections

SEPA – no objections

SEPA - Flooding Section – no objections

East Ayrshire Access Panel North District – no objections but a dropped kerb should be provided at the layby and the access panel would prefer level access throughout.

Galston Community Council – have objected to the development, points noted at section 3 above.

5. Development Plan Summary

East Ayrshire Local Plan

Policy SD7 states that the Council will positively support, encourage and promote the sympathetic upgrading, re-use and conversion of existing properties, both within the area settlements and throughout the rural area, in preference to the construction of new build properties.

It is considered that the proposal generally meets with the principles of this policy as the proposal is to convert an existing property at the edge of the settlement boundary.

Policy SD3 states that within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only where the development:

- (i) comprises an acceptable form of residential use as detailed in Policy RES13 of the Local Plan; or
- (ii) can be fully justified in terms of site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community; or
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture or forestry.

The proposal does not comprise residential, agriculture or forestry and does not contribute to rural land diversification therefore the relevant criteria of this policy are (ii) and (iii). There is no specific justification for this site over a town centre site, which is relatively nearby and is therefore contrary to part (ii). In terms of part (iii), it is considered that the reuse of the redundant building and the potential for job creation could bring social and economic benefits however the full benefits of the scheme has not been justified.

Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail, commercial leisure developments and other uses appropriate to town centres as described in Schedule 5 of the Plan. Developers will be required to locate all such

development firstly, in town centres as identified on the Local Plan maps and secondly, in edge of centre locations, in preference to out-of-town centre locations. Applicants proposing such developments in out-of-town centre locations shall be required to demonstrate that no suitable alternative site can be found or assembled within town centres and thereafter in an edge of centre location.

The proposed use falls predominantly within class 1 of the use classes order and the applicant proposes a small class 3 sale of food and drink for consumption on the premises ancillary use. Schedule 5 of the Local Plan requires that all developers locate such uses within the town centre in the first instance. The applicant has not submitted any information to satisfy the sequential test which therefore suggests that the proposal could realistically be sited within the town centre of Galston.

Policy RTC5 states that in assessing all out-of-centre retail and other Schedule 5 development proposals, the Council will have regard to:

- (i) whether the applicants have adopted a sequential approach and can demonstrate that no suitable alternative sites are available within or on the edge of town centres;

Taking each point in turn, the applicants have not adopted a sequential approach to the development and it is likely that a suitable building within the town centre could be found.

- (ii) whether the proposal would affect, either individually or cumulatively, the vitality and viability of town centres and whether the scale of the proposal is appropriate to its location;

It is considered that the proposal would have an impact on the vitality or viability of the town centre.

- (iii) whether the proposal is accessible to a choice of means of transport;

The proposal can be accessed relatively easily as the site is located near to the town centre and is also on the route between the Loudoun Academy and the town.

- (iv) the effect of the proposal on travel patterns, infrastructure and road works;

The proposed layby would require road alterations however the Roads Division has indicated that sightline standards are not achievable.

- (v) whether the proposal would be compatible with other uses in the surrounding area;

The site sits at the edge of the settlement with the adjacent property across the river being the Balmoral Knitwear shop, also a class 1 use. To the north east of the site is the Co-op shop, a further class 1 use.

The site is otherwise bounded by the road and vacant ground/agricultural land.

(vi) whether the design of the proposed building would be acceptable;

The design of the building is not proposed to change other than the raised access and parking and alterations to create an entrance door. Given the materials proposed, the design of the building is considered to be acceptable.

(vii) the effect of the proposal on the environmental quality, character and amenity of the area;

The proposal will not have a detrimental impact on the environmental quality character and amenity of the area.

(viii) whether the proposal would be compatible with other local plan policy objectives.

In terms of other local plan policies, it is noted above that the proposal is not compliant with RTC1 and is only part compliant with SD3. It is considered that the proposal is generally compliant with policy SD7.

Policy IND6

All proposals for new industrial or business development on land not specifically identified for such purposes on the Local Plan maps and changes of use of existing premises to industrial or business use, will require to be justified against all of the following criteria:

(i) locational need;

The applicant has not demonstrated that the proposal requires to be in this location rather than in the nearby town centre.

(ii) availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;

n/a

(iii) economic benefit;

There may be an economic benefit in terms of job creation.

(iv) impact on surrounding environment and adjacent uses;

There will be minimal impact on the surrounding environment or adjacent uses.

(v) transportation and infrastructure implications;

The Roads Division have indicated that sightlines are required at the site exit. The applicant has advised that these are achievable however given the adjacent hump back bridge, it is considered that these sightlines cannot be achieved, a view which has been shared by the

Roads Division.

- (vi) loss of public amenity open space;

There is no loss.

- (vii) loss of prime quality and good quality locally important agricultural land falling within categories 1, 2, 3.1 and 3.2 of the Macauley Land Use Research Institute; and

There is no loss.

- (viii) impact on natural and built heritage resources.

There is no significant impact.

6. Material Considerations

Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications),

Policy SD5 states that development proposals outwith settlement boundaries, as indicated on the Local Plan Rural Area Map, will be acceptable to the Council only where the development:

- (i) comprises an acceptable form of residential development in accord with Policies RES 9 and RES10 of the Local Plan;
- (ii) contributes to rural diversification through the development of appropriate industrial, business, tourism, leisure, recreational and other developments with a justified need for a rural location; or
- (iii) constitutes an acceptable form of farm diversification; or
- (iv) is of demonstrated benefit to the vitality and viability of local rural communities; or
- (ii) provides for the operational needs of agriculture or forestry.

The current proposal is not considered to be in accordance with any of the above criterion.

6.3 Through Policy SD8, the Council will positively support, encourage and promote the sympathetic renovation, re-use and conversion of existing properties, both within the area settlements and throughout the rural area.

As the proposal represents the change of use of an existing vacant building outwith the settlement boundary of Galston, the proposal is considered to be in accordance with the provisions of this strategic policy.

6.4 Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail, commercial leisure developments and other uses appropriate to town centres as described in Schedule 6(i) of the Plan. Developers will be required to locate all such development firstly, in town centres as identified on the Local Plan maps; secondly, in edge of centre locations where no such town centre sites are available; and thirdly, in identified commercial centres as identified on the local plan maps, in preference to out of centre locations. Applicants proposing such developments in out of centre locations will be required to demonstrate to the satisfaction of the Council:

- (i) that no suitable alternative site can be found or assembled within town centres, in an edge of centre location or in an identified commercial centre: and
- (ii) that the chosen location is, or can be made, easily accessible by a choice of modes of transport.

The applicant has not submitted information demonstrating that a sequential approach has been taken for the proposed change of use. As the site is considered to represent an out of centre location, in order to comply with this policy the applicant would need to demonstrate that the proposed use could not be located within the town centre or in an edge of centre location. It should be noted that the site is accessible by public transport and is a short walk from nearby car parks and the general town centre area.

6.5 Through RTC2, subject to the provision of all other retail and town centre policies, the Council will ensure that all development proposals for the classes of development detailed in Schedule 6(i) of the Local Plan are commensurate with the size and function of the area or settlement within which they are proposed. In this regard:

- (i) all major retail and other Schedule 6(i) uses of East Ayrshire wide impact and importance are directed to the main town of Kilmarnock;
- (ii) all major retail and other Schedule 6(i) uses of significant importance to a range of local communities within the investment corridors are directed to the service centres of Cumnock, Auchinleck, Stewarton, Galston and Dalmellington;
- (iii) all retail and other Schedule 6(i) uses of local importance are directed to the particular service centres or local communities to be served by the development.

The proposed internet café comprises of a Schedule 6(i) use of local importance and should therefore be directed to the service centre of Galston.

6.6 Policy RTC9 states that in addition to the types of development detailed in policies RTC 7 and RTC 8, small scale retail development proposals, falling within Class 1 of the Use Classes Order, in out of centre locations will generally be supported by the Council where:

- (i) the proposal is for a local shop or shops required to meet the day to day convenience needs of local residents. New local and top-up shopping provision in existing neighbourhood or local centres will be particularly supported by the Council and preference will be given to the re-use of existing vacant premises rather than new build developments; or
- (ii) the proposal is for a factory shop located within the curtilage of an existing factory unit or for a shop attached to an existing or approved craft workshop, where the retail outlet is purely ancillary to the main manufacturing use of the premises and where the goods sold are limited exclusively to those goods manufactured on site; or

Note: In cases where individual factory shops are proposed in locations outwith the curtilage of the factory premises to which they relate or where a number of factory retail outlets, unrelated to their manufacturing base, are grouped together to form a Factory Outlet Centre, the developments will be treated as normal retail developments and will be assessed accordingly.

- (iii) the proposal is for a farm shop located on the farm unit to which the shop relates, established specifically to sell local agricultural or horticultural products and where the majority of goods sold consist of those produced or grown on site; or
- (iv) the proposal is for a tourism, leisure or recreation related retail development, where the goods sold and services provided cater specifically for tourists and visitors to the area and where the proposed shop is purely ancillary to the main tourism, leisure or recreation use of the premises; or
- (v) the proposal is for the sale of coal or other minerals direct from an extraction site, either to local distributors or to individual members of the general public for local domestic use; or
- (vi) the proposal is for a small scale shop designed to serve the needs of a dispersed rural community or, if attached to a rural petrol station (see Policy RTC14 below), the travelling public.

Notwithstanding the above policy approach, all retail developments in out of centre locations will require to be assessed against criteria (iv) to (x) detailed in Policy RTC6 above.

Note: for the purpose of this policy, small scale retail development proposals are deemed to have a gross floor area of less than 200 square metres.

It is considered that the current proposal does not meet any of

the above criterion.

Consultation responses

The consultees in this instance have not shown full support for the development. The Community Council in particular have objected to the development on a number of grounds. The Roads Division has no objections subject to conditions including sightlines however they have subsequently advised that said sightlines cannot be achieved despite the applicants claim that sightlines can be achieved.

Letter of representation

The Community Council objection points are relevant and in particular they note that the proposal is contrary to the East Ayrshire Local Plan policies.

Supporting statement

The applicant has advised that the building is visually prominent at the entrance to Galston and an approval would allow it to be significantly ties and renovated to a better appearance. The alternative, if refusal is recommended, is that the building continues to deteriorate and becomes an eyesore. The building is currently used as a drink and drugs den by youngsters who also vandalise the building and the applicant is continually having to secure the building and repair damages.

The proposal also provides additional educational opportunities for youths and others who wish to explore the internet. It gives a lot back to Galston, instead of youngsters getting up to no good due to boredom, they could get an education in a manner they would enjoy.

Impact on the amenity of the area.

The proposal would return a disused building back into use at a prominent location at the town boundary of Galston. Adversely though, the proposal would have a visual impact through the creation of a new retained layby and parking area and a raised access walkway which are significant works in relation to a small building.

Planning history

Application 08/0777/FL for Change of Use from Former BT Exchange Unit to Form an Internet Cafe and Formation of Service Layby was refused on 30 April 2009.

7. Financial and Legal Implications

There are no financial or legal implications.

8. Application Assessment

Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan is the Adopted Ayrshire Local Plan (2003).

As noted at section five above, the application is considered to be largely contrary to the terms of the development plan and in particular to policies SD 3, RTC 1, IND 6 and RTC 5.

The material consideration in this instance are not considered to carry sufficient weight to allow a recommendation for approval. In particular the Alteration to the East Ayrshire Local Plan, the planning history and the objection by the community council, as well as the unachievable sightline, do not support the application and indeed indicate that the application should be refused. The applicants supporting statement is noted however it is not considered to outweigh the development plan and the other material considerations which are not in support of the proposal.

9. Recommendation

Refused

10. Reasons for the Decision

The proposal is contrary to the terms of the development plan and the material considerations do not carry sufficient weight indicate that the application should be approved.

Case Officer : David Wilson

Signature:

Date:

24/5/10

Principal Planner:

Signature:

Date:

26/5/10

**Development
Management Manager**

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Signature:

Date: