

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 15 AUGUST 2008

**08/0205/FL: CHANGE OF USE AND RE-CONFIGURATION TO FORM
RETAIL SHOPS (CLASS 1) INCLUDING ALTERATIONS TO ELEVATIONS
AND FORMATION OF SERVICING FACILITIES.**

**AT: FORMER BLAIR & GRAY GARAGE, BEANSBURN, KILMARNOCK
BY: CULVERT PROPERTIES LTD**

Supplementary Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for consideration by the Committee a full planning application. This was continued by Committee at the meeting of 20 June 2008 for further investigation into the possibility of introducing a pedestrian crossing facility in the vicinity of the application site.

1.2 Since this previous Committee meeting, the applicant has decided to appeal to the Scottish Government on the basis that the Council has not reached a decision on this application within the statutory 2 month period. In order that the Planning and Economic Development Division can present the Council's position on the appeal, this report now seeks the Committee's view on the proposed development. The Committee will not, because of the appeal, be able to issue an actual decision on the application.

2. INVESTIGATION INTO THE FEASIBILITY OF PEDESTRIAN CROSSINGS

2.1 The Council's Roads & Transportation Division has assessed the possibility of introducing a pedestrian crossing facility in the vicinity of the application site. The initial assessment considered:-

- 1) The possibility of a Puffin Crossing on Beansburn between the former Blair & Gray Garage and the Dean Road junction and;
- 2) The possibility of introducing traffic signals with a pedestrian phase at the Beansburn / Dean Road junction.

2.2 The Roads Division undertook a snap-shot survey of pedestrian and vehicle counts to assess the potential demand for a crossing. The results of this survey show a level of pedestrian / vehicle conflict well below the numerical criteria normally required to justify the provision of a formal pedestrian crossing.

2.3 There have been 5 reported accidents during the 3 year period to June 2008 on Beansburn between the junctions of Innellan Drive and Dean Road.

Two of these accidents were damage only, 2 resulted in slight injury (including 1 pedestrian) and the other accident involved serious injury to a pedestrian. There is no common causation or specific cluster area.

'Puffin' Pedestrian Crossing

2.4 Two possible locations in the vicinity of the site have been considered and the cost of the facility would be in the region of £30, 000.

2.5 The crossing would enhance pedestrian amenity, but result in the significant loss of on-street parking. The crossing could also physically impede traffic movements to adjacent frontages. Furthermore no consultation has taken place with local residential and commercial premises and there could be objections on grounds of access and loss of parking.

Traffic Signal Assessment

2.6 Signalisation of the junction at Beansburn and Dean Road can benefit pedestrian movements but the current access layouts for the various residential and commercial properties in the vicinity of Dean Road are such that signalisation of the junction is not feasible. Any such proposal would also require a further extension to the build-outs on the corners of Dean Road resulting in the loss of on-street parking and would also make access and egress to the various properties more difficult and might not be supported by local residents. A typical installation would cost £50,000. A traffic signal is not therefore considered to be a practical option.

3. PLANNING APPEAL

3.1 Whilst the above survey was underway, the applicant's agents lodged an appeal with the Scottish Government against the failure of the Council to come to a decision on the application in the statutory period. The Division must submit the Council's view on the application in its written submissions to the Scottish Government. As part of the documentation received for the appeal, the applicant's agent has also confirmed that the applicant is not now prepared to make a contribution towards any pedestrian facility as they do not believe there is any technical or road safety reasons for the crossing as a result of the proposed development.

4. CONCLUSIONS

4.1 Whilst a puffin type crossing could be formed this has distinct disadvantages. A traffic signal arrangement is also not considered to be appropriate. The applicant's agent has now further advised that the applicant is not willing to contribute towards any such facility.

4.2 Consequently, it falls to the Council to consider the merits of the application as submitted. Members will be aware that the report to Committee on 20 June 2008 recommended approval for the application. Given the foregoing, it is considered that a conditional approval of the application as

recommended on the 20th June would be an appropriate submission to the Scottish Ministers in relation to the appeal.

5. RECOMMENDATION

5.1 It is recommended that the Members of the Committee agree that the Council's position in the current appeal be that the planning application should be granted subject to the conditions detailed in the committee report 08/0205/FL as presented to Members at the meeting of 20 June 2008 and attached to this report.

CONTRARY DECISION NOTICE

Should the Committee be of the view that the application should not be approved subject to conditions and presented as such at the appeal, contrary to the recommendation of the Head of Planning and Economic Development, the application will not require to be referred to the Principal Planning Committee because there would be no significant breach of policy and this alternative view will be presented in relation to the appeal.

Alan Neish
Head of Planning and Economic Development
(FMF/KW)
6 August 2008

LIST OF BACKGROUND PAPERS

1. Roads & Transportation Division's Survey.
2. Planning Application No: 08/0205/FL

Any person wishing to inspect the above papers please contact Fiona Finlay on (01563) 576798.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 20 JUNE 2008

**08/0205/FL: CHANGE OF USE AND RE-CONFIGURATION TO FORM
RETAIL SHOPS (CLASS 1), INCLUDING ALTERATIONS TO ELEVATIONS
AND FORMATION OF SERVICING FACILITIES
AT: FORMER BLAIR AND GRAY GARAGE, BEANSBURN, KILMARNOCK
BY: CULVERT PROPERTIES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This proposal involves the re-use of the existing Blair and Gray car showroom building and incorporates its reconfiguration and infill to provide 3 units (all of which will be Class 1 Retail). The main components of the application are as follows:-

- 3 “Class 1 (Retail)” units of the following sizes. Over and above the retail floorspace, each unit has an ancillary area to the rear i.e. for servicing and staff facilities.

Unit 1:	93m ² in retail floor area (plus 14m ² ancillary area) (107 sqm gross)
Unit 2:	280m ² in retail floor area gross
Unit 3:	96m ² in retail floor area (plus 16m ² ancillary area) (112 sqm gross)

- The external finish will comprise grey//silver powder coated aluminium shopfronts with grey/silver cladding to the fascia. The rear elevation will comprise a wet dash render and grey/silver cladding.
- Each unit has individual access into the service area to the rear of the building which will be created from the demolition of the workshop building. The service area will have a tarmac finish.
- Within the rear service area there will be a single storey refuse store to service the retail units of 36m² in floor area which will replace a garage from the previous use. External materials will comprise wet dash render with black timber panel doors and dark grey timber fascia and rainwater goods. The building will have a flat roof.
- Palisade fencing will be erected along the rear boundary with Turner Place which will have access for a staff car park. Internal to the site will be a staircase to allow staff access to the rear of the building.
- 5 off street parallel parking bays are indicated to the front of the site from which loading/unloading would also take place at certain times of the day; ie early morning/close of business.

1.2 The applicant's agents have submitted a supporting statement with their application. It advises that this is an amended application to two applications previously submitted. The first application proposed three retail units and two hot food takeaway units and was withdrawn by the applicant. The second application was for three retail units and one hot food takeaway and was refused as detailed at Section 6 of this report. This current application is based upon a proposal which deletes the hot food takeaway and revises the parking arrangements to indicate parallel parking, which the applicant considers takes account of the nature of the objections to the previous planning application and the reason for refusal.

1.3 The statement advises that the application will creatively re-use an existing building which is consistent with a sustainable approach. It proposes the provision of local shops (improving accessibility for convenience top-up shopping, encouraging walking and cycling, and reduces car trips and; it will improve the local environment of the area with an active and beneficial use). The statement concludes that the scale and nature of the proposal is appropriate for a local shopping facility and will provide a facility for local residents at a location which will cause minimal disruption to the amenity of the area.

1.4 The applicants justify the parking/access arrangements pointing out that there are designated staff parking spaces to the rear of the premises; that this is not a new build development but in part re-uses an existing building and that it brings life back into an urban brownfield site.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is largely in accordance with the development plan. However, the proposal is technically contrary to East Ayrshire Local Plan policy RTC7 as the size of the Class 1 retail element of the scheme exceeds the 200sqm indicated in the policy. It should, though, be noted that separate planning applications for each unit to provide retail uses would not be contrary to Policy RTC7. The proposal complies with the terms of policies ENV7; and RTC5 of the Adopted EALP and would result in the re-use of a current vacant site and provide additional shopping provision for local residents. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 There are material considerations relevant to this application as indicated in Section 6 of the report and the consultation responses are

generally supportive of the proposal. The concerns of the objectors relate to the perceived loss of amenity, traffic impact; road safety; litter; overprovision of convenience shopping and hot food takeaway uses in the vicinity; anti-social behaviour and parking problems. Whilst noted, the concerns of objectors are not echoed by the consultation responses received from Strathclyde Police; East Ayrshire Council Roads and Transportation Division; East Ayrshire Council's Environmental Health and Waste Management Division and the East Ayrshire Access Panel. As such it is considered that the proposed development will result in the re-use of a vacant building, formerly used as a car garage and showroom within an area typified by mixed uses.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application will require to be referred to the Parent Planning Committee as that would be a significant departure from Council policy.

Alan Neish
Head of Planning & Economic Development

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 20 JUNE 2008

**08/0205/FL: CHANGE OF USE AND RE-CONFIGURATION TO FORM
RETAIL SHOPS (CLASS 1), INCLUDING ALTERATIONS TO ELEVATIONS
AND FORMATION OF SERVICING FACILITIES
AT: FORMER BLAIR AND GRAY GARAGE, BEANSBURN, KILMARNOCK
BY: CULVERT PROPERTIES LTD**

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Northern Local Planning Committee under the scheme of delegation as it is subject to objections and is contrary to the Adopted East Ayrshire Local Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the single storey flat-roofed former Blair and Gray car showroom on Beansburn and associated outbuildings and car park area which sits at a higher level than the showroom and is accessed via Turner Place to the rear. To the north, the application site is bound by a vacant site which is screened from Beansburn by fencing and an advertising hoarding, beyond the vacant site is a single storey neighbourhood shop with takeaway facility and Dean Road with two storey red sandstone residential flats beyond. To the south is an electrical sub-station and Dean Park. To the west there is a bookshop; hairdresser and children's nursery with two storey tenement flats beyond.

2.2. **Proposed Development:** This proposal involves the re-use of the existing Blair and Gray car showroom building and incorporates its reconfiguration and infill to provide 3 units (all of which will be Class 1 Retail). The main components of the application are as follows:-

- 3 "Class 1 (Retail)" units of the following sizes. Over and above the retail floorspace, each unit has an ancillary area to the rear i.e. for servicing and staff facilities.

Unit 1:	93m ² in retail floor area (plus 14m ² ancillary area) (107 sqm gross)
Unit 2:	280m ² in retail floor area gross
Unit 3:	96m ² in retail floor area (plus 16m ² ancillary area) (112 sqm gross)

- The external finish will comprise grey/silver powder coated aluminium shopfronts with grey/silver cladding to the fascia. The rear elevation will comprise a wet dash render and grey/silver cladding.
- Each unit has individual access into the service area to the rear of the building which will be created from the demolition of the workshop building. The service area will have a tarmac finish.
- Within the rear service area there will be a single storey refuse store to service the retail units of 36m² in floor area which will replace a garage from the previous use. External materials will comprise wet dash render with black timber panel doors and dark grey timber fascia and rainwater goods. The building will have a flat roof.
- Palisade fencing will be erected along the rear boundary with Turner Place which will have access for a staff car park. Internal to the site will be a staircase to allow staff access to the rear of the building.
- 5 off street parallel parking bays are indicated to the front of the site from which loading/unloading would also take place at certain times of the day; ie early morning/close of business.

2.3 The applicant's agents have submitted a supporting statement with their application. It advises that this is an amended application to two applications previously submitted. The first application proposed three retail units and two hot food takeaway units and was withdrawn by the applicant. The second application was for three retail units and one hot food takeaway and was refused as detailed at Section 6 of this report. This current application is based upon a proposal which deletes the hot food takeaway and revises the parking arrangements to indicate parallel parking, which the applicant considers takes account of the nature of the objections to the previous planning application and the reason for refusal.

2.4 The statement advises that the application will creatively re-use an existing building which is consistent with a sustainable approach. It proposes the provision of local shops (improving accessibility for convenience top-up shopping, encouraging walking and cycling, and reduces car trips and; it will improve the local environment of the area with an active and beneficial use). The statement concludes that the scale and nature of the proposal is appropriate for a local shopping facility and will provide a facility for local residents at a location which will cause minimal disruption to the amenity of the area.

2.5 The applicants justify the parking/access arrangements pointing out that there are designated staff parking spaces to the rear of the premises; that this is not a new build development but in part re-uses an existing building and that it brings life back into an urban brownfield site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Southcraigs Dean Community Council and North West Kilmarnock Community Council are currently disbanded.

Noted.

3.2 East Ayrshire Council Roads and Transportation Division note that the current proposal offers a reduced level of parking to that associated with the previous scheme. Roads are not concerned about this reduction and have noted the applicant's justification for the proposed parking and servicing arrangements. Whilst commenting that the layout as proposed creates servicing problems, the parking bays cannot be restricted to service vehicles and they would not recommend refusal.

Noted.

3.3 Strathclyde Police have no adverse comment although have made several recommendations, not all of which are directly relevant to the planning application process. Their comments relate to the following matters:

- 1) Design and locking of doors;
- 2) Thickness and type of glazing;
- 3) The downwater pipes at the rear should be incorporated into the build or recessed into the wall;
- 4) Design of fire exit doors and internal door;.
- 5) The new single storey refuge store should be located further south-west to incorporate the secondary wall that it is to run adjacent with. The gap which exists between the north elevation of this store and the boundary wall should be gated to a height of at least 1800mm. The double leaf timber doors should be internally hinged or secured by dome headed bolts;
- 6) Any barrier which provides a boundary to the high level staff car park and the low level service area should be a rail/fence type thus allowing those approaching their vehicles to see if others are loitering and allow for the number plates of unauthorised vehicles to be noted;
- 7) The rear boundary fence should be replaced with one which is Secured By Design compliant, likewise the gates. The existing trees should be pruned and maintained;
- 8) If any roof area can be accessed by means of climbing onto a boundary wall then this roof area should have 'rotating veins' fitted. This concern may exist at the southern boundary as indicted on the plans near to the rear of Unit 5. This boundary wall return should not extend along the side elevation of unit 5 as it creates a recess but instead should finish flush with the rear wall of said unit;
- 9) In terms of this amended application, Strathclyde Police have referred to 2 recent incidents at commercial premises near to this site

and point to the close proximity of the perimeter fencing at east and west aspects of the building. This proximity may result in the roof area being potentially vulnerable to attack.

The applicant has confirmed that the requirements of the Strathclyde Police Crime Prevention Officer will be fully adhered to and incorporated within the design and if Members choose to grant consent, an appropriately worded condition can be incorporated.

3.4 East Ayrshire Council Environmental Health and Licensing Division has no objections in principle but offer several comments as follows:

- Noisy work during construction should be restricted to 7am-7pm Monday to Friday; 8am-1pm on a Saturday and no noisy work on a Sunday;
- Suitable provision should be made for the disposal of waste arising from the use of the proposed facilities;
- Noise from construction works should at no time cause the underlying background noise level LA90(1hour) to rise by more than 30dB(A).
- All drainage should be completed to the satisfaction of SEPA and/or Scottish Water;
- All waste arising from construction works should be disposed of to the satisfaction of the Waste Management Authority and otherwise by burning;
- Although there is no concern regarding contamination a general caveat on the conditions of any approval to the effect that if any contamination is found during the development, the Council should be informed along with any required remedial measures formulated to address the risk of exposure to key receptors and subsequent confirmation of completion of works.

The above requirements can be addressed by attaching relevant conditions and advisory notes to any grant of planning consent.

3.5 The East Ayrshire Access Panel have no adverse comments in respect of the proposed development although have requested an accessible parking space be included.

Noted. One of the preferred parking bays can be allocated for use by persons with special access needs.

3.6 The Scottish Environment Protection Agency have not responded to their consultation.

In terms of the most recent previous application, they did not object and noted that they have no record of flooding or flood risk for this site. They were aware that the proposal related to the alteration and reconfiguration of the existing building, there will be no effect on flood plain storage capacity or affect on local flooding issues. They advised that all construction works on site must be carried out with regard to SEPA's guidelines on avoidance of pollution and any waste material imported during construction must be stored and used only in accordance with any waste management licence and disposed of at a suitably licensed or exempt waste management facility.

Noted. Although SEPA did not reply to their consultation response it is reasonable to consider their previous comments and if Members choose to grant consent, their comments can be incorporated into any consent by either conditions or advisory notes.

3.7 Scottish Water have no objections although recommend early contact with themselves to discuss connection to the public water and sewerage networks.

Noted. If Members choose to grant consent an advisory note can be attached in this regard.

4. REPRESENTATIONS

Five letters of objection, representing seven objectors and a petition containing 343 signatures has been received relating to the proposed development following the statutory neighbour notification process and public advertisement of the proposals. The main points of objection are as follows:

4.1 The revised plans do not address the reason for refusal of the previous application i.e. pedestrian and road safety. There will be a reduction in an already saturated on-street parking provision and there will be an increased volume of traffic. East Ayrshire Council plan to introduce new road markings which will further reduce current parking facilities.

The Council's Roads and Transportation Division have no objections to make on the proposals.

4.2 A development of this nature in this location is still going to have a major impact and create a significant material change to the area.

Due to the variety of uses in the locality, including a Children's Nursery; Convenience Store with takeaway facilities; Christian Bookshop and Hairdressing Salon; it is not considered that the re-development of the former Blair and Gray Garage/Car Showroom will have an adverse impact on the amenity of the area.

4.3 The proposals could lead to an increase in noise and loitering, which could result in disturbance to the residents in the surrounding areas.

Strathclyde Police and the Council's Environmental Health and Waste Management Division have no adverse comments to make on the proposals.

4.4 Turner Place is a cul-de-sac with no turning area and limited parking and if the application was approved, then service vehicles or staff using Turner Place could cause safety problems due to the width of the road; access for emergency vehicles and Council refuse vehicles. The road surface is very poor and any increase in traffic would only cause further problems. At the previous committee meeting it was understood that the Roads Division said there had been no complaints about the surface condition which is not correct, as various communication has taken place concerning the road condition and potholes.

Access to the site via Turner Place is proposed for staff car parking only. In addition the Council's Roads and Transportation Division have no objections to the proposals.

4.5 Should this application be allowed it will have an adverse effect on existing businesses.

The impact or otherwise of the proposed new retail units on existing retail units is not a material consideration in the determination of this application. The proposals constitute small scale neighbourhood convenience retail units.

4.6 There is an over-provision of such uses in the area. Beansburn is already well served for these proposed uses.

The proposed development is considered to be largely in accordance with the relevant policies of the Adopted East Ayrshire Local Plan and as such the proposals will provide additional neighbourhood convenience shops for the locality. Members are also referred to Section 5 of this report.

4.7 The area will be devalued and a loss of amenity as a result of late night intermittent associated traffic disturbance, reduction in already over saturated on-street parking and encouragement to attract rowdy pedestrian traffic from nearby licensed premises. The Police reports for Dean Street Shops should be checked. Existing businesses all close by 6pm and the proposals will encourage loitering.

Due to the variety of uses in the locality, including a children's nursery; convenience store with takeaway facilities; Christian bookshop and hairdressing salon; it is not considered the re-development of the former Blair and Gray Garage/car showroom will have an adverse impact on the amenity of the area. It should

also be noted that Strathclyde Police; the Council's Roads and Transportation Division and Environmental Health and Waste Management Division have no adverse comments to make on the proposals.

The impact on property values as a result of a proposed development is not a material planning consideration.

4.8 With increased traffic there should be enhanced road safety features within the area, i.e. pedestrian crossings. The children who attend the nursery often have to cross the busy road due to people parked in front of their parking spaces.

The Council's Roads and Transportation Division have no objections to make on the proposals.

4.9 The larger unit exceeds the 200 sqm in the East Ayrshire Local Plan for Class 1 use.

Members are referred to Section 5 of this report which considers the proposals against the local plan.

4.10 It is proposed to locate a refuse unit on the same level as the flats at Highfield Grove where residents enjoy their retirement in a peaceful setting. A refuse unit and all that it entails bringing traffic, noise, pollution and vermin is unthinkable in this setting. Residents will have a view of rubbish and lorries. Although the garage previously operated from the site, there was no noise or disturbance to residents.

The Council's Environmental Health service has not objected to this application. The refuse unit is also in the same location as previously proposed in the earlier applications. If Members choose to grant consent, it is recommended that a condition be incorporated which seeks further details and clarification on the refuse unit in terms of its location, details and finish.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) (2007) and the Adopted East Ayrshire Local Plan (EALP) (2003).

Approved Ayrshire Joint Structure Plan (AJSP) (2007)

5.2 It is not considered that there are any Policies within the AJSP relevant to the determination of this application and the proposal is therefore assessed against the EALP.

Adopted East Ayrshire Local Plan (EALP) (2003)

5.3 Policy ENV7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. Developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

It is considered that the design of the proposals respects the design of the original building.

5.4 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;

No evidence has been presented to suggest that the applicant has carried out a sequential test. However, the nature of the proposal is for small scale neighbourhood shops which are intended to meet the needs of local residents rather than compete with established town centres. It is considered that for this type of development, a sequential test does not have to be applied in this instance.

(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;

The development is for 3 relatively small retail units, of which, two units of approximately 100 sqm and one larger unit of approximately 300 sqm. It is considered that the development will not significantly affect the town centre, as the proposed units would be aimed at a different market from the town centre units, primarily meeting the day-to-day convenience needs of local residents. If planning consent is granted it is recommended that a condition be incorporated to ensure that the units are occupied by "convenience" retailers.

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

The proposed site is on a main bus route, and is within walking distance for a significant number of residential properties.

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

The Council's Roads Division have been consulted on this application and have no objections.

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

The site is occupied by a disused car garage, which has been vacant for some time and is of poor visual quality. The surrounding uses are mixed, and include residential dwellings; a children's nursery; hairdresser; newsagent and hot food takeaway. As there is already some commercial development within the immediate area, it is considered that the development of further retail units would be in-keeping with the surrounding land uses.

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

The proposal is for the change of use of the existing car garage to 3 retail units, and does not involve significant extension or demolition. It is considered that the development meets the Council's design guidance, specifically in term of shop fronts. In respect of the Council's advertising design guidance, these proposals would form part of a separate advertisement consent application in due course if Members granted planning consent for the overall development.

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

It is noted that the site is currently disused and in a generally poor state of repair. It is considered that the development of the site, would improve the current environmental quality of the site. It is also considered that the effect on the amenity of the area as a whole, will not be significant and would not warrant refusal of this application.

5.5 Policy RTC7 is supportive of retail development proposals in out-of-town centre locations in six circumstances, one of which is pertinent to this application;

- the proposal is for a local shop or shops, not exceeding a total of 200sqm gross floor area and falling within Class 1 of the Use Classes Order, required to meet the day to day convenience needs of local residents. New local and top-up shopping provision in existing

neighbourhood or local shopping centres will be particularly supported by the Council and preference will be given to the re-use of existing vacant retail premises rather than new build developments;

The proposal falls under this category, as it is for a row of neighbourhood shops to meet the needs of local residents. However, the proposal is contrary to this criterion as it involves a gross floorspace greater than 200sqm when the floorspace of all units is accumulated. The total floor space will equate to some 500sqm, with all of this being for Class 1 retail. It should, however, be noted that individual planning applications for each unit would not result in the proposals being contrary to this category within Policy RTC7. It is also noted that the proposals would result in the re-use of a currently vacant site and provide additional shopping provision for local residents and it is therefore considered to be appropriate in this instance.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultation responses and representation detailed in Section 3 of the report and the planning history of the site.

Consultation Responses and Representations Received

6.2 The consultation responses have been addressed in Section 3 of the report and are not considered to raise any issues that would warrant the refusal of this application. Any issues that have been received are considered to be able to be addressed by appropriately worded conditions and/or advisory notes.

6.3 Turning to the objections received, the concerns raised generally relate to loss of amenity, traffic impact; road and public safety; litter; overprovision of convenience shopping in the vicinity; anti-social behaviour and parking problems. Whilst noted, the concerns of objectors are not echoed by the consultation responses received from Strathclyde Police; East Ayrshire Council Roads and Transportation Division; East Ayrshire Council's Environmental Health and Waste Management Division and the East Ayrshire Access Panel.

Planning History

6.4 Planning Application No: 05/0429/FL; Proposed Flatted Residential Development which was withdrawn 25/10/05.

The above application was withdrawn following concerns being expressed by this Division relative to the height of the proposed development and lack of adequate private open space.

6.5 Planning Application No: 07/0265/FL; Proposed Change of Use of Garage to Class 1 Retail Units/ Re-configuration to Create 5 Retail Units and 2 Units with Hot Food Takeaway Usage and Alterations to Frontage of Refuse Storage which was withdrawn 22/08/07.

The application was withdrawn to amend the application site boundary to take cognisance of the requirements of the Council's Roads and Transportation Division and to take into account the concerns of objectors by reducing the number of hot food takeaway units from two to one.

6.6 Planning Application no. 07/0855/FL: Change Of Use And Re-Configuration To Form Retail Shops (Class 1) And One Hot Food Unit, Including Alterations To Elevations And Formation Of Servicing Facilities was refused by the Members of the Northern Local Planning Committee on 1 February 2008 for the reason that;

"The proposed development will be detrimental to roads and public safety due to the proposed parking arrangement which is considered to be of a design and layout that will put road users and pedestrians at risk once the development is open for trading and when manoeuvring in and out of the site".

This current application has been submitted following the above refusal of consent. The applicant's agent has submitted a supporting statement that the parallel parking now proposed replaces the previous proposal for "end on" parking.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in the determination of this application.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report the application is largely in accordance with the development plan. However, the proposal is technically contrary to East Ayrshire Local Plan policy RTC7 as the size of the Class 1 retail element of the scheme exceeds the 200sqm indicated in the policy. It should, though, be noted that separate planning applications for each unit to provide retail uses would not be contrary to Policy RTC7. The proposal complies with the terms of policies ENV7; and RTC5 of the Adopted EALP and would result in the re-use of a current vacant site and provide additional shopping provision for local residents. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 There are material considerations relevant to this application as indicated in Section 6 of the report and the consultation responses are

generally supportive of the proposal. The concerns of the objectors relate to the perceived loss of amenity, traffic impact; road safety; litter; overprovision of convenience shopping and hot food takeaway uses in the vicinity; anti-social behaviour and parking problems. Whilst noted, the concerns of objectors are not echoed by the consultation responses received from Strathclyde Police; East Ayrshire Council Roads and Transportation Division; East Ayrshire Council's Environmental Health and Waste Management Division and the East Ayrshire Access Panel. As such it is considered that the proposed development will result in the re-use of a vacant building, formerly used as a car garage and showroom within an area typified by mixed uses.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet.

Alan Neish
Head of Planning & Economic Development

FMF/IMB
6th June 2008

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to the Principal Planning Committee as this would not constitute a significant breach of policy.

List of Background Papers

1. Application form, plans and statutory notices/certificates;
2. Public Advertisements;
3. Statutory Consultations;
4. Approved Ayrshire Joint Structure Plan;
5. Adopted East Ayrshire Local Plan;
6. Planning Application: 05/0429/FL;
7. Planning Application: 07/0265/FL;
8. Planning application 07/0855/FL.

Anyone wishing to inspect the above papers should contact Fiona Finlay on 01563 576798.

Implementation Officer: Dave Morris

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 08/0205/FL

Location:	Former Blair & Gray Garage, Beansburn, KILMARNOCK
Nature of Proposal:	Change of use and re-configuration to form retail shops (Class 1), including alterations to elevations and formation of servicing facilities
Name & Address of Applicant:	Culvert Properties Ltd. 11 Campbell Avenue MILNGAVIE GLASGOW G62 6DL
Name & Address of Agent:	Mackinnon & Co Mercantile Chambers 53 Bothwell Street Glasgow G2 6TS

DPO's Ref:
FMF / RH

The above FULL PLANNING application should be granted subject to the following conditions:-

1. Notwithstanding the approved plans, details regarding the storage and collection of all waste arising from the business; including the provision of additional customer litter bins if necessary, and the location, design, capacity screening (including planting proposals) and external finish of the refuse store; shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Environmental Health service prior to any work commencing on site and shall be implemented thereafter as approved prior to any of the units hereby approved commence trading.

Reason: To ensure that waste materials are stored and disposed of in a manner that does not impact upon the amenity of the area.

2. Notwithstanding the approved plans, details and samples of all external materials to be used in the construction of the retail units shall be submitted to and approved by the Planning Authority in writing prior to the commencement

of development on site and shall be implemented on site as approved thereafter.

REASON In the interests of visual amenity.

3. Notwithstanding the approved plans, details of the design and construction (including colours) of all boundary features, fences and walls to be erected on the site shall be submitted to and approved, in writing, by the Planning Authority before any development commences on the site and shall be implemented as approved thereafter prior to the retail units being brought into use. The details to be submitted under the terms of this condition shall include boundary treatment details for the treatment of the northern, eastern and southern site boundaries and shall as referred to on the submitted site plan as proposed, take into account the comments of Strathclyde Police detailed in their consultation response.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

4. No external construction work, site clearance or preparation works shall take place before 08:00 hours or after 18:00 hours on Mondays to Fridays and before 08:00 hours or after 13:00 hours on Saturdays, nor at any time on Sundays.

REASON In the interests of residential amenity.

5. Any waste arising from the construction works on-site shall be disposed of to the satisfaction of the Waste Management Authority and other than by means of burning.

REASON In the interests of residential amenity.

6. All materials associated with the proposed construction works shall be stored within the application site at all times throughout the period of construction.

REASON In the interests of residential amenity.

7. One of the 5 proposed off street parking spaces shall be allocated for use by disabled badge holders and shall be so demarcated on site.

REASON In the interests of road safety.

8. The staff car park shall be used only for the parking of staff vehicles at all times and prior to any work commencing on site, details of a control entry/exit mechanism shall be submitted to and approved in writing by the Planning Authority. The approved system shall thereafter be in place prior to the first of the approved units opening for trading.

REASON In order to ensure the provision of staff parking.

9. Prior to any work commencing on site and further to drawing No. 05 "Site Plan as Proposed", further details and information about the measures to be adopted following the consultation response received from Strathclyde Police shall be submitted to and approved in writing by the Planning Authority. All approved measures shall thereafter be implemented prior to the first unit commencing trading.

REASON In the interests of community safety.

10. Noise from construction work and when the store is operational should not cause the underlying background noise level LA90(1hour) to rise by more than 3dB(A);

REASON In the interests of residential amenity.

11. Units 1, 2 and 3 as detailed on the approved 'Site Plan as Proposed' ref: 05 shall be used for the sale of Class 1 convenience goods only (under the Town & Country Planning (Use Classes) (Scotland) Order 1997) and shall not be used for the sale of comparison goods without the express written consent of the Planning Authority.

REASON In order to safeguard the vitality and viability of Kilmarnock Town Centre and to enable the Planning Authority to retain control over the use of the site, in the interests of local planning policies.

12. If any contamination is found during the development works on site, the Planning Authority shall be informed immediately and details shall be submitted to and approved in writing by them, which shall clarify the extent and areas of contamination and shall include details of any required remedial measures formulated to address the risk of exposure to key receptors and subsequent confirmation of completion of works. All remedial works shall be undertaken on site prior to any of the retail units hereby approved being open for trading.

REASON In the interests of public safety.

NOTES:-

1. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

2. It is recommended that the applicant makes early contact with Scottish Gas Networks (SGN) (Tel 0141 418 4084) prior to the commencement of works on site regarding the provision of gas mains in the vicinity.

3. It is recommended that the applicant makes early contact with Scottish Power (Tel 0141 567 4155) prior to the commencement of works on site regarding any diversion or protection of their infrastructure which may be required.
4. SEPA recommends that developers be aware of their Pollution and Prevention guidelines, which are available at www.sepa.org.uk.
5. The developer shall make early contact with East Ayrshire Council's Roads and Transportation Division relative to any road opening permits which may be required. Mr John Trakalo, Area Roads Engineer, can be contacted on 01563 576359 or by john.trakalo@east-ayrshire.gov.uk
6. During the period of construction works the developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.
7. All materials associated with the proposed development shall be stored within the application site at all times throughout the period of construction.
8. No surface water shall discharge from the application site onto the public road/ footway.
9. Any apparatus such as street lighting columns must be re-located at least 1 metre away from the new access crossing. In this regard East Ayrshire Council Roads and Transportation Division can be contacted on 01563 576310.
10. The applicant shall make early contact with Scottish Water on 0845 601 8855 or at Balmore Road, Glasgow G22 6NU to discuss connection to the water and sewerage networks and any requirements that they may have.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**