

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 18 JUNE 2009

**09/0173/FL: CHANGE OF USE OF COMMERCIAL SHED TO PROPOSED
CAR WASH/VALET SERVICE AND TYRE/EXHAUST CHANGE UNIT
AT 25 RIGG STREET, STEWARTON
BY PB PROPERTIES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The application relates to a change of use for the building from a vacant commercial use to a car wash and valet service which are sui generis uses as well as a tyre and exhaust change unit which falls within Class 5 of the Use Classes Order. Access to the site is taken at the southern point of the eastern boundary of the site. Thereafter access to the building will be taken via the southern elevation for the tyre, exhaust and valet unit with cars then exiting on the east elevation, turning anti clockwise around the building and exiting the site at the southern point of the eastern site boundary. The proposed car washing area is to be located externally, adjacent to the western elevation of the building. A large section of the site to the south west of the building will remain as a general yardage area with no particular connection to the proposed uses of the building. The applicant proposes to operate the business from 8am to 5pm Monday to Friday and 9am to 5pm on Sundays.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be largely compliant with the development plan. 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.

3.2 As indicated in Section 6, there are material considerations relevant to the determination of this application. The Alteration to the East Ayrshire Local Plan carries considerable weight in this instance. The Alteration policies IND 3 and IND 4 indicate that the proposed use is acceptable and as noted above amenity could be maintained to adjacent uses through the use of an appropriately worded planning condition. It is considered that such a condition would largely address the concerns of the objectors to the development in relation to operating hours, particularly at the weekend and taking into account other activities near to the application site. Furthermore it should be noted that the objectors largely are not against the principle of the development. The Roads Division has considered that the proposal is acceptable in road safety terms given the revised access and turning circle and this further addresses the concerns of objectors in relation to road safety.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused on the basis of the principle of industrial/development and contrary to the recommendation of the Head of Planning and Economic Development, the application will require to be referred to the Principal Planning Committee as the principle of the development is in accordance with the East Ayrshire Local Plan.

Alan Neish
Head of Planning and 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.

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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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation, since it is subject to more than 10 separate objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is centrally located within the town of Stewarton. This relatively level site is bounded to the south by a single storey industrial shed building. There is an earth embankment with trees and vegetation to the north west and west with a 2 metre high boundary fence separating the site from the Jigg and Fixtures industrial building. To the east of the site is Rigg Street with a 3 storey high flatted development on the opposite side of the road. The red line boundary of the site is adjacent to the Stewarton railway line as well as the supermarket and various industrial buildings to the south. The existing building is a single storey building finished in red brick and roughcast render with a profiled sheet roof. The building was formerly in commercial use and was adjoined by another section of building which has since been demolished. The building measures 12.5 metres wide by 27 metres long and has a floor area of 337.5m². Also within the red line site but unaffected by this development are two telephone masts.

2.2 **Proposed Development:** The application relates to a change of use for the building from a vacant commercial use to a car wash and valet service which are sui generis uses, as well as a tyre and exhaust change unit which falls within Class 5 of the Use Classes Order. Access to the site is taken at the southern point of the eastern boundary of the site on to Rigg Street. Thereafter access to the building will be taken via the southern elevation for the tyre, exhaust and valet unit with cars then exiting on the east elevation, turning anti clockwise around the building and exiting the site at the southern point of the eastern site boundary. The proposed car washing area is to be located externally, adjacent to the western elevation of the building. A large section of the site to the south

west of the building will remain as a general yardage area with no particular connection to the proposed uses of the building. The applicant proposes to operate the business from 8am to 5pm Monday to Friday and 9am to 5pm on Sundays.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has no objections to the development although it advises that a new footway requires to be formed over the frontage of the development and the access crossing must be of commercial standard. Both of these require to be formed to adoptable standard.

Noted. Appropriate conditions can be attached to any grant of consent to ensure that an adoptable standard footway and commercial access crossing are provided.

3.2 Stewarton Community Council has not responded to their consultation response at the time of writing.

Noted.

3.3 East Ayrshire Council's Environmental Health Division has not responded to their consultation at the time of writing.

Noted.

3.4 Scottish Environment Protection Agency has not responded to their consultation at the time of writing.

Noted.

3.5 The East Ayrshire North Access Panel have no comments to make on this application.

Noted.

3.6 Scottish Water has not responded to their consultation response at the time of writing.

Noted.

4. REPRESENTATIONS

4.1 One letter of objection and a petition with 15 signatories have been received in connection with this application. The grounds of objection are as follows:

4.2 We object to any work being carried out on evenings and all day Sunday on the proposed car wash/valet service and tyre/exhaust change unit. (Not construction work)

The objectors concerns are noted in this regard. The site is 18 metres from the front elevation of the residential properties which could be adversely affected by this type of development. The tyre and exhaust changing in particular can be noisy and given that the car washing element is an external activity, the amenity of these residential properties could suffer with regard to noise pollution. It should be noted however that the flats front onto Rigg Street, are approximately 100 metres from the railway line and already front onto an existing industrial area. To provide a degree of residential amenity, particularly on a Sunday, it is considered that an appropriate planning condition should be attached to limit the working times to 8am to 5pm on Monday to Saturday and 10am to 4pm on Sunday. This will limit any impact of the development on these properties whilst also taking into account the other uses surrounding the site.

4.3 The property is in close proximity to my flat, one of my bedrooms is to the front of the building overlooking this property and as you can imagine the noise from a car wash/tyre and exhaust centre would cause a disturbance.

It is considered that a degree of disturbance would already occur at this location as the application site is adjacent to existing industrial and business uses, the objectors property fronts onto an A class road and the railway line is approximately 100 metres distant. However, it is considered that the proposed use could cause a degree of disturbance particularly if operated outwith normal business hours given the proposed use and the external operations. To mitigate this potential effect it is considered that a planning condition restricting the operating hours of the business would be appropriate and would largely address the concerns of the objector.

4.4 I would also raise concerns about the operation of the business premises and how much of the work would be carried out in the open air.

It is considered that the tyre and exhaust fitting element of the business could be a noisy activity. Principally however it will take

place internally, while there will be car washing outside. As advised above, this level of activity is not considered to be a significant issue during core business hours where operations elsewhere also take place that contribute to a general background level of activity. Outwith these core hours, where general noise levels have subsided, a condition should be utilised to ensure that the proposed use does not have an adverse impact on nearby residential properties.

4.5 Lighting could also cause a problem due to the close proximity of the two properties.

Given that the site fronts an A class road which has street lighting it is considered that lighting provided for this proposal would not cause any particular issue. This is further reinforced by the use of the rear area of the building for the external car wash use which will help to minimise any effect that extra lighting could cause.

4.6 I would also raise awareness of road safety, regarding parking and a build up of traffic could also be an issue.

The Roads Division is content that the site access, parking and turning area is sufficient in terms of road safety.

4.7 I would also be concerned as to the hours of the business and if the business would be operating seven days a week which would cause further disturbance.

It is proposed to utilise a planning condition which will restrict the opening hours of the business to core times and would also restrict Sunday working to a shorter period of time which it is considered will maintain the residential amenity of the adjacent dwellings.

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 be 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) and the Adopted East Ayrshire Local Plan (EALP).

East Ayrshire Local Plan

5.2 Policy IND6 requires 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 to be justified against a set of eight separate criteria, as follows:-

- (i) locational need;

The proposal is re-using an existing building with a car wash to be erected to the rear; therefore, a locational need can be justified in this instance.

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

The applicant has provided no information on the availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply.

- (iii) economic benefit;

The applicant has provided no information in this regard; however, there will be some economic benefit from the establishment of a new business such as the creation of jobs.

- (iv) impact on surrounding environment and adjacent uses;

It is considered that there will be limited impact on the surrounding environment and adjacent uses as it is within an existing industrial area. It is noted that there is a flatted development on the other side of Rigg Street however the proposed use could be restricted by planning condition to ensure that the residential amenity of these properties is maintained to a reasonable degree.

- (v) transportation and infrastructure implications;

The Roads Division has no objections to the proposed development.

- (vi) loss of public amenity open space;

There will be no loss of public amenity open space.

- (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

N/A

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

It is considered that there will be no adverse impact on landscape character or on natural and built heritage resources.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications), consultation responses, letters of representation, the site planning history and the impact on the amenity of the area.

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

For clarity, whilst development proposals will continue to be assessed first and primarily against the Adopted Local Plan, the Council has now given Authority for an appropriate and proportionate degree of weight to be given to the Alteration to the East Ayrshire Local Plan in the determination of planning applications. In this case, weight can be given to Policies IND 3 and IND 4 of the Alteration.

6.2 Policy IND 3 states that proposals for business, industry and storage and distribution uses of a local nature falling within Classes 4, 5 and 6 of the Use Classes Order will be directed towards those Business and Industry Development Opportunity Sites specifically identified in the plan and safeguarded for such purposes on the local plan maps.

As the tyre and exhaust changing is a class 5 use within the Use Classes Order and forms a substantial part of the proposal, it is considered that the proposal generally accords with this policy.

6.3 Policy IND 4 states that within settlement boundaries, all proposals for new industrial, commercial or business development on land not specifically identified for such purposes on the Local Plan maps and changes of use of existing, non business or industrial, premises to industrial or business use, will only be supported where:

- (i) the proposed use is compatible with surrounding land uses;

It is considered that as the car wash proposal is compatible with surrounding industrial land uses which border the site to the north, west and south. It is further considered that the flatted dwellings on the opposite side of Rigg Street are unlikely to be adversely impacted by the proposed use however an appropriately worded condition could be utilised to regulate the operating hours of the

business to ensure that the noisier aspects of the development do not impact on the residential amenity of these properties.

- (ii) the development has no unacceptable adverse impact on the character and amenity of the surrounding area;

It is considered that the proposal will have little or no adverse impact on the character and amenity of the surrounding area as it is located within an existing industrial area and utilises an existing redundant building. As noted above an appropriate condition could be attached to any consent to restrict the operating hours of the noisier tyre and exhaust changing element of the proposal to maintain the residential amenity of the nearby flatted properties.

- (iii) the development has no unacceptable transportation or infrastructure implications;

The Roads Division has no objections to the development.

- (iv) there is no unacceptable loss of safeguarded public amenity or recreational open space;

There will be no loss of safeguarded public amenity or recreational open space.

- (v) the development has no adverse impact on landscape character or on natural and built heritage resources.

It is considered that there will be no adverse impact on landscape character or on natural and built heritage resources.

Consultation Responses

6.4 The consultee comments are relevant to the consideration of this application. The Roads Division has offered no objection to the development and considers that the access and turning arrangements are acceptable.

Letters of Representation

6.5 The letters of representation relate primarily to the operating hours of the development. The concerns of the objectors are noted in this regard and the Planning Authority considers that there could be a noise and disturbance nuisance given the nature of the uses and the proximity of the unit to the flats. It is therefore proposed that an appropriately worded condition be attached to any

consent which restricts the operating hours of the development to core business hours of 8am to 5pm Monday to Saturday and 10am to 4pm on a Sunday. These hours reflect the noise levels generated by other nearby uses such as the road, other industrial units and the railway line but also take account of when these and other back ground noise levels will reduce. The point raised regarding lighting is considered to be of minimal weighting as lighting exists at the site as well as on the public road and further lighting could be installed on the existing building without consent being required. The concerns of the objector regarding parking and access issues are not shared by the Roads Division.

Impact on the Amenity of the Area

6.6 It is considered that the proposal would have a relatively minor impact on the amenity of the area provided an operating hours condition is utilised. The site is located within a predominantly industrial area where noisier type uses would be acceptable however in this instance given the close proximity of the flatted properties and the nature of the operation of the business, a degree of control to maintain residential amenity is required.

Planning History

6.7 Planning application 99/0528/FL for proposed re-cladding of existing factory walls was approved with conditions on 6 August 1999.

6.8 Planning application 08/0324/OL for outline planning permission for mixed residential flatted/commercial development, alterations and formation of access to the highway (including demolition of existing buildings) was withdrawn on 25 August 2008.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be largely compliant with the development plan. 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 As indicated in Section 6, there are material considerations relevant to the determination of this application. The Alteration to the East Ayrshire Local Plan carries considerable weight in this instance. The Alteration policies IND 3 and

IND 4 indicate that the proposed use is acceptable and as noted above amenity could be maintained to adjacent uses through the use of an appropriately worded planning condition. It is considered that such a condition would largely address the concerns of the objectors to the development in relation to operating hours, particularly at the weekend and taking into account other activities near to the application site. Furthermore it should be noted that the objectors largely are not against the principle of the development. The Roads Division has considered that the proposal is acceptable in road safety terms given the revised access and turning circle and this further addresses the concerns of objectors in relation to road safety.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused on the basis of the principle of industrial/development and contrary to the recommendation of the Head of Planning and Economic Development, the application will require to be referred to the Principal Planning Committee as the principle of the development is in accordance with the East Ayrshire Local Plan.

Alan Neish
Head of Planning and Economic Development

FV/DVM

10 June 2009

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications)
7. Planning application 99/0528/FL
8. Planning application 08/0324/OL

Anyone wishing to inspect the above papers please contact David Wilson Senior Planning Officer (Acting), on 01563 576779.

Implementation Officer: Dave Morris

TP24

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 09/0173/FL

Site of Proposal:	25 Rigg Street Stewarton Kilmarnock East Ayrshire KA3 5AJ
Nature of Proposal:	Change of use of commercial shed to proposed car wash/valet service and tyre/exhaust change unit
Name & Address of Applicant:	PB Properties Ltd Balgraymill Farm Cutstraw Road Fenwick KA3 6BB

DPO's Reference: DW/IMB

The above full application should be approved subject to the following conditions:

1. The use hereby approved shall not be carried out before 0800hrs and after 1700hrs on Mondays to Saturdays nor before 1000hrs and after 1600hrs on Sundays.

Reason: To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

2. Notwithstanding the plans hereby approved, further details of the height, material and colour of the proposed boundary treatments including the proposed 1.8 metre high fence fronting onto Rigg Street, shall be submitted for the written approval of the Planning Authority prior to any work commencing on site and shall be implemented as approved prior to occupation of the approved unit and maintained thereafter.

Reason: To ensure that the proposed boundary treatment is not detrimental to the visual amenity of the surrounding area.

3. The revised access shown on approved drawing 0902-PL01 Revision A shall be formed and operational prior to the commencement of development.

Reason: To ensure that the site meets the required road safety standards for access and turning.

4. Notwithstanding the plans and details hereby approved, the access to the development shall be hard paved for a minimum distance of 5 metres from the edge of the public road prior to the use commencing and shall be maintained as such thereafter.

Reason: To prevent the overcarry of loose material onto the public road in the interest of road safety.

5. Notwithstanding the plans and details hereby approved, an adoptable standard footway shall be provided over the frontage of the development with Rigg Street prior to the commencement of development.

Reason: To ensure that the footway adjacent to the site meets required road safety standards.

Notes to applicant

Note 1: It is recommended that the applicant make early contact with Scottish Water regarding connections to their infrastructure. Scottish Water can be contacted at Clyde House, 419 Balmore Road, Glasgow G22 6NU.

Note 2: The developer is advised to make early contact with the Roads Division regarding road opening permits for the footway and commercial crossing.