

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 4 MARCH 2011

**10/0991/PP: CHANGE OF USE FROM PUBLIC HOUSE TO
CONVENIENCE STORE**

**AT: THE WHEATSHEAF, 29 MAIN STREET, KILMAURS
BY: GLEN VORLICH LEISURE LTD**

Report by Head of Planning and Economic Development

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0991/PP>

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This proposal involves the re-use of the existing building and incorporates internal alterations to form a convenience store which will comprise a Class 1 Retail unit under the Town and Country Planning (Scotland) Order 1997. The applicant also proposes some external changes to the front elevation, blocking off the front entrance door and relocating it off-centre on the front elevation and an entrance door on the north side elevation will also be blocked up which would previously have provided an entrance to the upper floor of the building. 5 car parking spaces are to remain in the car park to the north of the building which is accessed from Main Street.

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 in accordance with the Development Plan noting that the proposal can be considered to accord with Policies RTC1, RTC3 and ENV9 of the Adopted Local Plan. It is considered that Kilmaurs Town Centre is the appropriate location for a retail store, noting its predominant mix of established commercial uses, and that the application site is currently used as a public house.

3.2 There are no outstanding issues raised by the consultees and the points raised by the Roads and Transportation Service can be conditioned should Members choose to grant consent. The points raised by the objectors have also been noted, however, the issues raised do not warrant refusal of

the application. The site is an established commercial property within Kilmaurs Town Centre and issues of commercial competition are not material planning considerations. 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. The level of objection that the application has generated is noted. However the site is located within the town centre and there are no material planning considerations which would warrant refusal of this application.

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 Council as this would not constitute a significant breach of policy.

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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**10/0991/PP: CHANGE OF USE FROM PUBLIC HOUSE TO
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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 an application for planning permission which is to be considered by the Northern Local Planning Committee under the scheme of delegation as it is subject to objections and a petition signed by 507 persons.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the two storey sandstone building which is currently operating as the Wheatsheaf public house, located centrally within the village of Kilmaurs. The building although not a listed building is located within the Kilmaurs Conservation Area. The site is at the junction of Main Street with the B751 Fenwick Road. The site is bound to the north by a car park formed within the curtilage, to the south by the B751 beyond which is The Weston Tavern and a public car park, to the east by residential property and to the west by Main Street beyond which is The Turf Hotel and other commercial property including a hot food takeaway and some residential properties.

2.2 **Proposed Development:** This proposal involves the re-use of the existing building and incorporates internal alterations to form a convenience store which will comprise a Class 1 Retail unit under the Town and Country Planning (Scotland) Order 1997. The applicant also proposes some external changes to the front elevation, blocking off the front entrance door and relocating it off-centre on the front elevation and an entrance door on the north side elevation will also be blocked up which would previously have provided an entrance to the upper floor of the building. 5 car parking spaces are to remain in the car park to the north of the building which is accessed from Main Street.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Kilmaurs Community Council object to the this application on the following grounds:-

- Kilmaurs already has a “Co-operative” store and an existing “Premier” convenience store. The duplication of a convenience store would not increase the retail amenities of the village.
- The addition of another store would be excessive in view of the village’s relatively small population and would jeopardise the viability of existing sales outlets, which are much valued by Kilmaurs residents/visitors.
- The location of the proposed store is at an area where traffic is at its heaviest. Crossing the street to gain access to the existing Wheatsheaf is extremely difficult and hazardous and this situation would be aggravated by the proposed convenience store with a special danger for children. There is no pavement on Fenwick Road and any on-street parking would also cause a danger.

The application site is located within the Kilmaurs town centre as further detailed in Section 5 of this report. Matters of economic competition are not a material planning consideration and it is noted that the Council’s Roads and Transportation Service have no objections to this application as detailed in Section 3.2 of this report.

3.2 East Ayrshire Council Roads and Transportation Service have no objections provided footway bollards are provided on the footway adjacent to the front entrance of the proposed convenience store to prevent customers parking on the wide footways. Of the 5 car parking spaces within the car park, one space should be a disabled space and directional signing should be installed at this bay which conforms to the relevant roads signage legislation.

Should members choose to grant consent, these matters can be conditioned. An advisory note can also recommend that the applicant make early contact with the Council’s Roads and Transportation Service in order to obtain the appropriate permits for the bollards.

3.3 The East Ayrshire Access Panel (North) have no objections to the proposed development.

4. REPRESENTATIONS

4.1 In addition to the objections from Kilmaurs Community Council that have been outlined in Section 3.1 above, 6 letters of objection, representing 6 parties and a petition containing 507 signatures were received following neighbour notification and public advertisement of the proposals. The main points of objection are as follows:

4.2 There is an over-provision within Kilmaurs of convenience stores with a butchers and bakers that will also be affected by this proposal. Current businesses and jobs for local people must be supported and protected

throughout the current recession noting that some staff in existing businesses are currently working reduced hours.

Whilst noted, these concerns are not a material planning consideration in the determination of this planning application. It is not for the planning system to balance the merits of competing retail offers in these circumstances.

4.3 This application site is located at a very busy area of the village at the Fenwick Road junction which is already a dangerous corner for motorists, cyclists and pedestrians. This proposal could cause accidents at the junction and main route to the M77. A convenience store presumably with opening hours encompassing the whole day, will add greatly to the traffic problem. It would also attract custom from people outside Kilmaurs who happen to be driving through the village and therefore there would be an overall increase in traffic and disturbance.

East Ayrshire Council's Roads and Transportation Service have no objections to the proposals as detailed in Section 3.2 of this report.

4.4 The application is illegal as there is already an existing Premier convenience store, but no application has been made to this company who will be taking legal action.

This point of objection refers to an indicative signage proposal on the proposed front elevation plan which refers to "Premier". Any proposals for signage do not form part of this application and in any case, this matter would be a private legal matter between the main company and any prospective franchisee and not therefore a material planning consideration.

4.5 The building is a listed building and other applications for alterations and signage/colour have had to be agreed with Historic Scotland and some were refused on the basis of not being appropriate to the conservation area.

Each application requires to be considered on its own individual merits. This building is not a listed building, although it is located within Kilmaurs Conservation Area and there is no requirement to consult Historic Scotland on the current proposals. This application does not relate to any proposed signage which would be considered separately under any future application for advertisement consent. The proposed external alterations are considered to be appropriate to the existing building and surrounding Conservation Area. Should members choose to grant consent, a condition can be applied requiring that the external appearance of all materials to be used in the proposed alterations shall match the external materials of the original building.

4.6 It would be a terrible loss if this public house was turned into a convenience store. The business reopened in June 2010 and as an original drinking establishment in Kilmaurs along with The Turf Hotel it has consistently provided an excellent range of cask ales.

The change of use of the premises is assessed as detailed in Section 5 of this report. In this respect it is noted that the site lies within the Kilmaurs town centre boundary where a mix of commercial uses as listed in Schedule 6(1) of the local plan would normally be directed.

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) (2010).

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) (2010)

5.3 The Council will, through Policy RTC1, 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.

This application site lies within the defined Kilmaurs town centre boundary. Schedule 6(i) uses in the Local Plan refer to uses such as the existing public house and the proposed use of the building as a retail store. As the site is within Kilmaurs town centre, retail use is appropriate to the town centre of Kilmaurs and compliant with Policy RTC1.

5.4 Policy RTC3 states that within town centres and elsewhere throughout the area settlements, the Council will positively encourage owners and developers to retain and improve all existing retail facilities and other facilities falling within Schedule 6(i) of the local plan. Where changes of use of properties in Schedule 6(i) use are proposed or where a property in Schedule 6(i) use becomes vacant, the Council will, in the first instance, encourage and support the re-use or redevelopment of the property for an appropriate alternative Schedule 6(i) use.

The proposed development of this public house for retail purposes represents the continued use of this property for Schedule 6(i) purposes and noting that the application site lies within the Kilmaurs town centre boundary, the proposal is considered to be appropriate and is therefore in accordance with this policy.

5.5 Policy ENV9 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.

This application site is located within the Kilmaurs Conservation Area and noting the design of the limited external alterations, the proposals are considered to respect the design of the original building.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultation Responses

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 raised can be addressed by appropriately worded conditions and/or advisory notes.

Representations Received

6.3 As detailed in Section 4 of this report, the concerns raised generally relate to traffic impact, road and public safety and the overprovision of convenience shopping in the vicinity. Whilst noted, the concerns of objectors are not echoed by the consultation responses received from East Ayrshire Council Roads and Transportation Service and the concerns regarding overprovision are not material planning considerations noting that this site is located within the Kilmaurs town centre boundary.

Planning History

6.4 There is no relevant planning history which would warrant refusing planning permission for this application.

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 in accordance with the Development Plan noting that the proposal can be considered to accord with Policies RTC1, RTC3 and ENV9 of the Adopted Local Plan. It is considered that Kilmaurs Town Centre is the appropriate location for a retail store, noting its predominant mix of established commercial uses, and that the application site is currently used as a public house.

8.2 There are no outstanding issues raised by the consultees and the points raised by the Roads and Transportation Service can be conditioned should Members choose to grant consent. The points raised by the objectors have also been noted, however, the issues raised do not warrant refusal of the application. The site is an established commercial property within Kilmaurs Town Centre and issues of commercial competition are not material planning considerations. 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. The level of objection that the application has generated is noted. However the site is located within the town centre and there are no material planning considerations which would warrant refusal of this application.

9. RECOMMENDATION

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

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 Council as this would not constitute a significant breach of policy.

Alan Neish
Head of Planning & Economic Development

FMF/RB/RH

FV/DVM

22 February 2011

List of Background Papers

1. Application form, plans and statutory notices/certificates;
2. Representations and Petition;
3. Statutory Consultations;
4. Approved Ayrshire Joint Structure Plan;
5. Adopted East Ayrshire Local Plan;

.
Anyone wishing to inspect the above papers should contact Robert Beaton,
Planning Officer on 01563 576770.

Implementation Officer: Dave Morris

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 10/0991/PP

Location	Wheatsheaf 29 Main Street Kilmaurs Kilmarnock
Nature of Proposal:	Change of use from public house to convenience store
Name and Address of Applicant:	Dr George Vinas C/o Agent
Name and Address of Agent	Seonaid Withey 19 Earl's Hill Balloch Cumbernauld G68 9ET

Officer's Ref: Robert Beaton
01563 576770

The above application for planning permission should be granted subject to the following conditions:-

1. Notwithstanding the approved plans, a revised car parking plan shall be submitted to and approved in writing by the Planning Authority before any development commences on site. The car parking plan shall show 5 spaces, one of which shall be an accessible space and the car parking shall be laid out as approved prior to the use commencing and shall be maintained thereafter for the life of the development.

REASON – To ensure the provision of adequate parking in the interests of road safety and residential amenity.

2. A scheme for the provision of footway bollards shall be submitted to and approved in writing by the Planning Authority before the approved development commences on site. For the avoidance of doubt the footway bollards shall be located around the footway at the front entrance of the proposed convenience store as shaded in orange on the approved plans. The details to be submitted shall show the layout and design of the bollards.

REASON – In the interests of road safety and residential amenity.

3. Further to the terms of Condition 2, the footway bollards shall be provided on site prior to the approved use commencing trading and shall be

maintained thereafter in accordance with the approved details for the life of the development.

REASON – In the interests of road safety and residential amenity.

4. Notwithstanding the plan(s) hereby approved the external appearance of all materials to be used in the alterations to the exterior shall match the materials of the original building.

REASON - To ensure that the exterior alterations match the external appearance of the existing building and thereby maintain the visual quality of the area.

ADVISORY NOTES:-

1. The applicant is advised that this application does not include any consent for the display of advertisements. Separate application for Advertisement Consent may be required and the applicant is advised to make early contact with East Ayrshire Council's Planning and Economic Development Service on 01563 576798 to discuss whether such an application is required, prior to installing any advertisement(s) at the site.

2. The developer shall make early contact with East Ayrshire Council's Roads and Transportation Service relative to any road opening permits which may be required.

3. 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.

4. 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.

5. 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.

6. SEPA recommends that developers be aware of their Pollution and Prevention guidelines, which are available at www.sepa.org.uk.

7. 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.

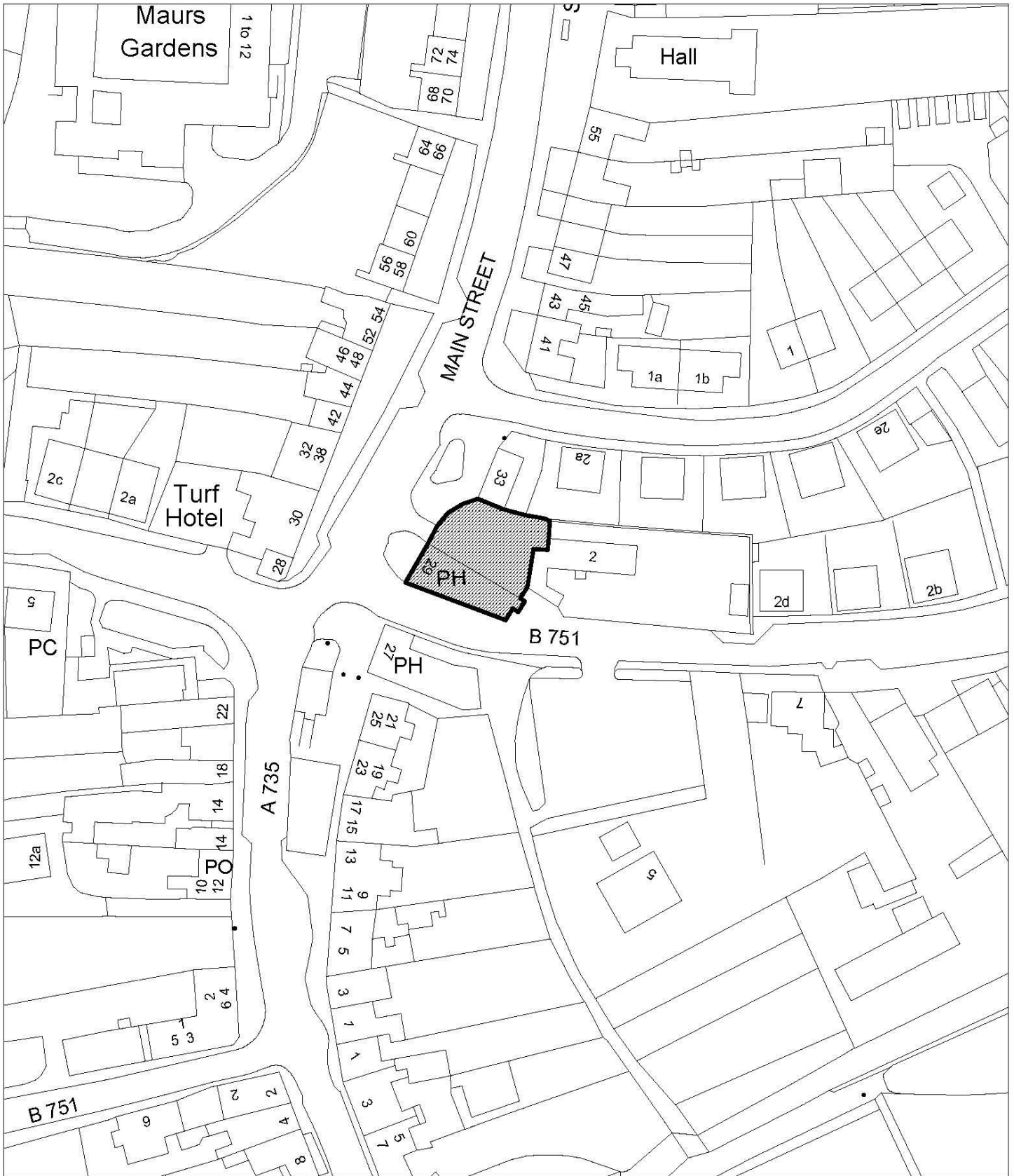
8. All materials associated with the proposed development shall be stored within the application site at all times throughout the period of construction.

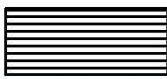

9. No surface water shall discharge from the application site onto the public road/ footway.

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.

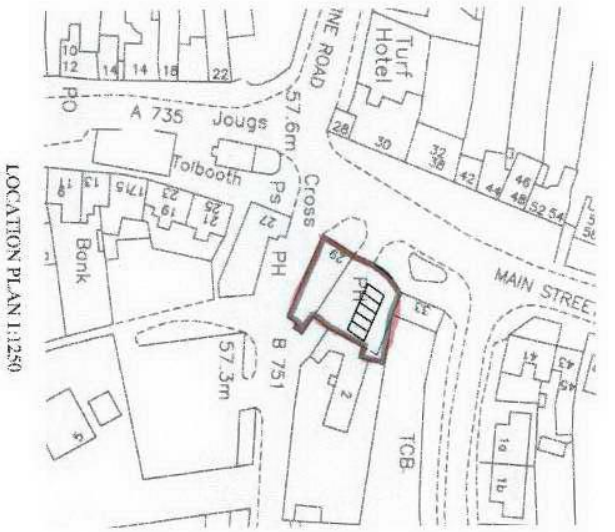
Reason for the Decision

The proposed change of use is consistent with the terms of the Adopted East Ayrshire Local Plan 2010 and there are no material planning considerations of sufficient weight as merit the refusal of the proposals.

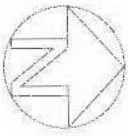


<p>Title/Location Wheatsheaf, 29 Main Street</p> <p> Kilmaurs</p> <p> Application No. 10/0991/PP</p>	<p>East Ayrshire Council</p> <p>Department of Neighbourhood Services Planning & Economic Development Service. 6 Croft Street Kilmarnock KA1 1JB</p> <p>Tel: (01563) 576790 Fax: (01563) 576774 E-Mail : Planning@east-ayrshire.gov.uk</p> <p>Com Date: 4/3/2011</p>
<p>Key</p> <p> Application Site</p>	<p style="text-align: right;"></p>

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LOCATION PLAN 1:250



BLOCK PLAN 1:500

THIS APPLICATION IS FOR PLANNING ONLY. A BUILDING WARRANT WILL BE REQUIRED PRIOR TO WORK COMMENCING. ALL DOWNTAKINGS TO BE CHECKED BY STRUCTURAL ENGINEER PRIOR TO REMOVAL.

<p>Project Proposed conversion of Wheatstearf Inn to retail shop 29 Main Street Kilmarnock Kilmarnock KA3 2SZ</p>		<p>Client Glen Vornich Leisure Ltd 1/2, 34 Midlock St Glasgow G51 1SF</p>		<p>Project Wheatstearf Inn 29 Main Street Kilmarnock Kilmarnock KA3 2SZ</p>	
<p>Scale: 1:1250, 1:500 Dwg No: 10/1001</p>					

ALL SIZES TO BE CHECKED PRIOR TO ORDERING MATERIALS
ALL WORK TO BE CARRIED OUT ONLY FROM STAMPED APPROVED PLANS