

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 5 MARCH 2010

**09/0800/PP: CHANGE OF USE FROM PUBLIC HOUSE TO FORM HOT
FOOD TAKEAWAY AND INSTALLATION OF FLUE
AT: 22-24 BRIDGEND, NEWMILNS
BY MR TONY KONG**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposed development comprises a change of use to form a hot food takeaway and the installation of a flue through the roof. The flue will be surrounded by a dummy chimney finished in render to match the existing building. Shopfront alterations are also proposed and will comprise new windows, closing up of doors and formation of a new door. Amended plans were requested to reduce the prominence of the flue by installing a dummy chimney and remove a proposed external roller shutter.

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 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.

3.2 As indicated in Section 5 of the report, the proposal can be considered to accord with the Adopted Local Plan as the proposal is a Schedule 5 use which is acceptable within town centre areas.

3.3 The Alteration to the Local Plan reflects the position in the Development Plan and as such, is supportive of the proposal. There are no outstanding issues raised by the consultees. The points raised by the objections have also been noted, however, the issues raised do not warrant refusal of the 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 Full 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.

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 5 MARCH 2010

**09/0800/PP: CHANGE OF USE FROM PUBLIC HOUSE TO FORM HOT
FOOD TAKEAWAY AND INSTALLATION OF FLUE
AT: 22-24 BRIDGEND, NEWMILNS
BY MR TONY KONG**

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 the subject of more than 10 objections.

2. APPLICATION DETAILS

2.1 **Application Site:** The application site comprises of a two storey former public house set at the junction with Bridgend and Main Street within the Newmilns Outstanding Conservation Area.

2.2 The application site is bounded by Main Street to the north, a retail unit and dwellings to the south, the junction of Bridgend and Main Street to the east and dwellings to the west.

2.3 **Proposed Development:** The proposed development comprises a change of use to form a hot food takeaway and the installation of a flue through the roof. The flue will be surrounded by a dummy chimney finished in render to match the existing building. Shopfront alterations are also proposed and will comprise new windows, closing up of doors and formation of a new door. Amended plans were requested to reduce the prominence of the flue by installing a dummy chimney and remove a proposed external roller shutter.

3. CONSULTATIONS RECEIVED

3.1 Newmilns and Greenholm Community Council and the East Ayrshire Access Panel have not responded to their consultation at the time of writing this report.

Noted.

3.2 East Ayrshire Council Environmental Health Division have no objections although offered comments on construction working times, construction noise, waste disposal, drainage, the installation of a grease trap

to the drainage system and filtering of cooking fumes and odours prior to discharge.

The comments referred to by Environmental Health are matters which can be controlled by their own nuisance legislation, by Scottish Water or through the Building Warrant process. However an appropriate condition should be attached with regard to the installation of appropriate filters to address cooking odours.

3.3 East Ayrshire Council Roads and Transportation Division have no objections to the application.

Noted.

4. REPRESENTATIONS

4.1 Eight individual letters of objection have been received as well as a petition with three signatures. It should be noted that the petition contains a further 51 signatories however insufficient information has been provided to note these as formal objectors; ie no addresses have been provided and some are illegible. The main points of valid objection are as follows:-

4.2 The establishment of a further takeaway business could possibly affect local employment during these testing times.

The objector implies that further competition generated by a new takeaway could impact on employment by existing business. It should be noted that economic competition and its impact is not a material planning consideration.

4.3 The proposal will encourage anti-social behaviour such as loitering, verbal abuse and noise.

Anti-social behaviour is a matter for the Police to control. It is not considered that this use will in itself encourage such behaviour and it is an appropriate use within the town centre.

4.4 Another fast food outlet will be detrimental to the health of the residents of Newmilns and there are sufficient hot food takeaways within the town.

These are not a material planning considerations.

4.5 There are minimal parking spaces at the moment.

The Roads Division have offered no objection to the development.

4.6 There will be an increase in litter.

The Council's Environmental Health Division has not raised this as a specific concern and it should be noted that the town centre location of this site will afford the use of public refuse bins.

4.7 My side window looks right out into the street where the takeaway is proposed.

The objectors property is located on the other side of Main Street and as such will not be affected by the development other than the general appearance of the site.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application the Development Plan comprises the Adopted East Ayrshire Local Plan (EALP)(2003).

Adopted East Ayrshire Local Plan (EALP)(2003)

5.2 The policies that are relevant to this application are RTC2, RTC11, RTC15, ENV4 and ENV7.

The proposed use falls into the Categories detailed within Schedule 5 of the Adopted Plan and complies with Policy RTC2, noting the location of this site in Newmilns town centre. The proposed change of use from Schedule 5 use to a hot food takeaway complies with RTC11.

5.3 Policy RTC15 states that development proposals for hot food takeaways will be considered acceptable uses within town centres where a range of criteria are met.

The application complies with RTC15 as it meets with the requirements of the Roads Division, meets design guidance and its operation will be compatible with surrounding uses being within the established town centre boundary.

5.4 Policies ENV4 and ENV7 are also relevant in respect of the external works to create new window and door openings and to form the external chimney for the flue. These policies require that alterations be appropriate and observe the traditional historic character of the conservation area and also comply with the Council's Design Guidance.

The alterations are considered to be appropriate to the traditional design of the building and to the surrounding Outstanding Conservation Area. The plans have been amended to delete a proposed external roller shutter and the creation of a mock chimney is a sympathetic way of disguising the more modern flue. If Members choose to grant consent, it is recommended that conditions be included to ensure that the design and glazing arrangement of windows and doors are appropriate to the

conservation area. On this basis, application complies with Policies ENV4 and ENV7.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

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

6.2 In this case, significant weight can be given to Policies RTC1, RTC3, RTC15, ENV4 and ENV9.

The proposal is consistent with these policies, given its town centre location within the design and town centre boundary for Newmilns.

6.3 Policy ENV4 relates to Policy ENV4 as detailed in paragraph 5.4 of this report and Policy ENV9 accords with Policy ENV7 of paragraph 5.4.

The application is therefore considered to comply with Policy ENV4 and ENV9.

Consultation Responses

6.4 The consultation responses are not considered to raise any issues that would warrant the refusal of this application.

Representations Received

6.5 The concerns in the letters of objection generally relate to overprovision of takeaways, competition between business, parking issues and antisocial behaviour. Whilst noted, the concerns of objectors are not echoed by the consultation responses, are within the remit of the Police or are not material planning considerations and would therefore not merit the refusal of the application. A petition has been received wherein the bulk of signatories have not provided an address and are in some cases illegible. As such, no weight can be given to it.

Impact upon the Amenity of the Area

6.6 This property has remained vacant for approximately three years therefore the proposed use will return this building, located at a prominent location within the Outstanding Conservation Area, back to use. The alterations to the building are considered to be acceptable with the flue predominantly disguised which maintains the appearance of the Outstanding Conservation Area. In terms of residential amenity it is considered that the

use will be acceptable as it is located within the identified Newmilns town centre boundary where other such uses are located, and generally a mix of land uses is seen to be appropriate.

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 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.

8.2 As indicated in Section 5 of the report, the proposal can be considered to accord with the Adopted Local Plan as the proposal is a Schedule 5 use which is acceptable within town centre areas.

8.3 The Alteration to the Local Plan reflects the position in the Development Plan and as such, is supportive of the proposal. There are no outstanding issues raised by the consultees. The points raised by the objections have also been noted, however, the issues raised do not warrant refusal of the 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 Full Council as this would not constitute a significant breach of policy.

Alan Neish
Head of Planning & Economic Development

22 February 2010
DW/KMc

FV/DVM

List of Background Papers

1. Application form, plans and statutory notices/certificates
2. Public Advertisements
3. Consultation responses
4. Representations received
5. East Ayrshire Local Plan (Adopted) 2003
6. Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications).

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

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 09/0800/PP

Site of Proposal: 22-24 Bridgend
NewmilnsKA16 9BX
East Ayrshire
KA1 1PG

Nature of Proposal: Proposed change of use from public house
to form hot food takeaway, alterations and
installation of flue

Name & Address of Applicant: Mr Tony Kong
5 Murray Place
Ayr
KA8 9PS

Name & Address of Agent: CASA Design Architecture
The Studio
27 Alloway
Ayr
KA7 4PY

DPOs Reference

The above application for Planning Permission should be approved subject to the following conditions:

1. Prior to any work commencing on site, further details of the proposed windows and doors shall be submitted to and approved in writing by the Planning Authority. The windows and doors shall be installed on site as approved prior to the use commencing and shall be maintained thereafter.

Reason: To ensure that all new doors and windows are of a standard commensurate with the Newmilns Outstanding Conservation Area, in the interests of maintaining and improving the visual amenity of the Conservation Area.

2. Prior to any work commencing on site further details and a sample of the proposed external surface finish of the mock chimney and the infilled doors shall be submitted to and approved in writing by the Planning Authority. The agreed finish shall be implemented on site as approved prior to the use commencing and shall be maintained thereafter.

Reason: To ensure that the door infill and mock chimney surfaces are of an appropriate finish which compliments the existing building and the Newmilns Outstanding Conservation Area, in the interests of maintaining and improving the visual amenity of the Conservation Area.

3. Prior to any work commencing on site details of a proposed filter system to filter cooking fumes and odours prior to discharge from the flue shall be submitted to and approved in writing by the Planning Authority in consultation with Environmental Health and shall thereafter be installed and operational on site as approved prior to the use commencing. The filter system shall be maintained as per its approved details thereafter.

Reason: To ensure that the filter system adequately filters cooking odours in the interests of maintaining the amenity of nearby residential property.