

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 01 FEBRUARY 2008**

**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  
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 4 units (three of which will be Class 1 Retail) and one for hot food takeaway. 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 ie for facilities.

Unit 4: 96m<sup>2</sup> in floor area (16m<sup>2</sup> ancillary area)

Unit 3: 177m<sup>2</sup> in floor area (28m<sup>2</sup> ancillary area)

Unit 2: 101m<sup>2</sup> in floor area (16m<sup>2</sup> ancillary area)

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.

- One unit for a hot food takeaway of 93m<sup>2</sup> in floor area with 14m<sup>2</sup> ancillary area.
- 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 36m<sup>2</sup> 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.
- On Beansburn at the frontage of the site, there will be a private loading bay that will be formed to allow for servicing of the retail units. When it is not in use for unloading it will be available for customer parking with one space

being accessible for disabled drivers. A continuous footpath along the frontage of the site will be maintained.

1.2 The applicant's agents have submitted a supporting statement with their application. It advises that this is an amended application to one previously submitted (and then withdrawn), which proposed a greater number of retail units and two hot food takeaway units. This application is based upon a different proposal which takes account of both specific market interest in the retail units and the nature of the public objections to the previous planning application.

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 that the reduced hot food takeaway provision will provide a facility for local residents at a location which will cause minimal disruption to the amenity of the area.

## **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. 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, however, 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; RTC5 and RTC15 of the Adopted EALP and would result in the re-use of a currently 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.

3.2 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 objector's 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 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 would not require to be referred to the Principal Planning Committee as this would not constitute a significant breach of 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: 01 FEBRUARY 2008

**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  
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 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 4 units (three of which will be Class 1 Retail) and one for hot food takeaway. 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 ie for facilities.

Unit 4: 96m<sup>2</sup> in floor area (16m<sup>2</sup> ancillary area)

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- 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 36m<sup>2</sup> 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.
- On Beansburn at the frontage of the site, there will be a private loading bay that will be formed to allow for servicing of the retail units. When it is not in use for unloading it will be available for customer parking with one space being accessible for disabled drivers. A continuous footpath along the frontage of the site will be maintained.

2.3 The applicant's agents have submitted a supporting statement with their application. It advises that this is an amended application to one previously submitted (and then withdrawn), which proposed a greater number of retail units and two hot food takeaway units. This application is based upon a different proposal which takes account of both specific market interest in the retail units and the nature of the public objections to the previous planning application.

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 that the reduced hot food takeaway provision will provide a facility for local residents at a location which will cause minimal disruption to the amenity of the area.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 Southcraigs/Dean Community Council have not responded to their consultation at the time of writing this report.

***Noted.***

3.2 East Ayrshire Council Roads and Transportation Division have no objections to make relative to the proposed development subject to conditions and advisory notes relating to the provision of a footway across the frontage of the units, relocation of apparatus (e.g. street lighting columns), details of the private loading bay, no discharge of surface water to the road and delineation of the footway.

**Noted.**

3.3 Strathclyde Police have no adverse comment although have made number of 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 doors.
- 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 indicated 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.

***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;
- No indication is given regarding the type of hot food takeaway to be provided or the proposed ventilation arrangements;
- 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;

***The above requirements can be addressed by attaching relevant conditions and advisory notes to any grant of planning consent. The applicant has not provided details of the proposed ventilation arrangements for the hot food takeaway unit and is aware that any extraction flue or ventilation equipment will require the submission of a separate planning application.***

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 which the applicant has provided in conjunction with the requirements of the Council's Roads Division.

***Noted.***

3.6 The Scottish Environment Protection Agency do not object and note that they have no record of flooding or flood risk for this site and therefore noting that the proposal relates 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. 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.

***The applicant's agent was copied into this consultation response and it is considered that these matters can be addressed by condition/note if members choose to grant consent.***

#### **4. REPRESENTATIONS**

4.1 Five letters of objection, representing six 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:

4.2 The development, creating a number of units, would also require adequate space for servicing and customer service which would not appear to be accounted for.

***The Council's Roads and Transportation Division have no objections to make on the proposals. Car parking spaces and a loading bay are proposed across the frontage of the proposed retail units on Beansburn.***

4.3 The site is within 50 metres of two road junctions and a blind bend. It is questionable that the development could be created without causing major impact to the neighbouring residents, namely- noise; litter nuisance and loitering generally associated with this type of operation.

***The Council's Roads and Transportation Division; Strathclyde Police and the Council's Environmental Health and Waste Management Division have no objections to make on the proposals.***

4.4 Beansburn is a main road and already congested with cars, vans and lorries constantly parked along the street in front of my house. The development would extend the problem of access safety and visibility to night time as well as day time due to the nature of the hot food takeaway element.

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

4.5 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 the re-development of the former Blair and Gray Garage/Car Showroom will have an adverse impact on the amenity of the area.***

4.6 The area is already well served by "takeaway" outlets at Dean Street and at the Howard Park Hotel Shopping Centre and they see no need for further outlets.

***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.***

4.7 If the application is granted it would lead to pollution and rubbish which is already in evidence from the limited takeaway served by "Bungalow Stores" adjacent to the proposed development.

***The Council's Environmental Health and Waste Management Division have no objections to make on the proposals whilst any additional requirement for litter bins can be addressed by attaching suitably worded conditions to any grant of planning consent. 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.***

4.8 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.***

4.9 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.

***A loading bay for serving the proposed retail units is proposed along the frontage of the application site. The 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.***

4.10 There is a fairly large senior citizen occupancy in Turner Place which would be seriously affected if the application was granted both from a disruption and safety point of view.

***The Council's Roads and Transportation Division and Environmental Health and Waste Management Division have no objections to make on the proposals.***

4.11 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.***

4.12 There is an over-provision of such uses in the area.

***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.***

4.13 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.

***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.***

4.14 They wish the tree line on Turner Place to be retained to reduce the environmental impact of the proposals

***The tree belt on Turner Place, immediately adjacent to the rear of the application site is not within the applicants control as it does not form part of the planning application site and therefore this Division cannot require that the applicant retains the trees on this land.***

4.15 The opening hours should be limited and the use of the retail units also limited. Opening hours should be restricted from 8am-6pm as was previously adhered to by the garage

***No Licence is required under the Civic Government Act for premises opening until 11pm. It is considered that it would be appropriate in the interests of residential amenity to reflect this time in a condition regulating opening hours of the hot food unit.***

4.16 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.***

## **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) (2007).

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.

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 is simple and 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 neighbourhood shops, primarily to meet the needs of local residents. It is considered that for this type of development, a sequential test does not have to be applied.***

(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 4 relatively small units, which will comprise one hot food takeaway, two units of approximately 100 sqm and one larger unit of approximately 200 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.***

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

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

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

***It is considered that the development would not have a significant impact on travel patterns, infrastructure and road works.***

- (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; 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 4 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;

***As 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 considered that the development of a hot food takeaway could have a negative impact on the amenity of the area, however, the site is on a busy main road and has existing commercial units nearby including other premises which sell hot food. It is therefore 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;

#### Criteria 7

- 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 550sqm, with 424sqm 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.***

5.6 Policy RTC15 states that development proposals for public houses and hot food takeaway's will be considered acceptable uses within town centres and may be considered appropriate in other locations where the proposals:

- (i) meet the Council's design and layout policies;

***It is considered that the development meets the Council's relevant design guidance, however no details relative to any proposed signage has been provided at this stage and could be subject to an Advertisement Application under the terms of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 in due course if the overall development is granted planning permission.***

- (ii) meet with the requirements of the Council as Roads Authority;

***The Council's Roads and Transportation Division have no objections to make relative to the proposed development.***

- (iii) do not have detrimental effect on the amenity of adjacent properties by reason of noise, litter, odour or any other disturbance;

***As stated in response to Policy RTC5 criterion 7 at paragraph 5.4 above, it is considered that the proposed location is appropriate for a hot food takeaway. The site is on a main road, is not directly adjacent to any residential properties, and there is a number of commercial properties, such as an existing takeaway, within the area. It is considered that the impact on the amenity of the area will be minimal.***

- (iv) are compatible with surrounding land uses.

***The surrounding land use is generally mixed; however there are commercial units, which the proposed takeaway units would be compatible with. Also, the hot food takeaway element can be seen to be compatible with the three Class 1 retail units, proposed as part of the comprehensive re-development proposals for the site.***

## 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. Turning to the objections received, the concerns raised generally relate to 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.

### Planning History

6.3 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.***

6.4 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 Useage 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.***

## 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. 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, however, 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; RTC5 and RTC15 of the Adopted EALP and would result in the re-use of a currently 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 objector's 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 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**

BD/RH  
23 January 2008  
FV/DVM

## **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

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: 07/0855/FL

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Location: Former Blair & Gray Garage, Beansburn,  
KILMARNOCK

Nature of Proposal: 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

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

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DPO's Ref: BD/ 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) shall be submitted to and approved in writing by the Planning Authority prior to any work commencing on site and shall be implemented thereafter as approved prior to any of the units hereby approved commencing 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.

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. The private loading bay shall require to be hard paved for a minimum distance of two metres from the rear of the footway edge of the public road in-order to avoid over-carry of loose material onto the public road/footway, whilst the public footway boundary shall be defined by the installation of a row of edging kerbs. Prior to any work commencing on site, these details shall be submitted to and approved in writing by the Planning Authority and shall thereafter be implemented on site prior to any of the units hereby approved commencing for trading.

REASON In the interests of road safety.

8. Prior to any of the units hereby approved being open for trading, a footway across the frontage of the site shall be provided, the details of which shall be submitted to and approved in writing by the Planning Authority prior to any work commencing on site.

REASON In the interests of road safety.

9. 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.

10. Prior to any work commencing on site and further to drawing No. 04C, 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.

11. 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.

12. Units 2, 3 and 4 as detailed on the approved 'Proposed Site Plan' ref: 04c 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.

13. The hot food unit is hereby consented to operate only between 11:00hrs and 23:00hrs.

REASON: In the interests of residential amenity.

**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](http://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](mailto: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. For the avoidance of doubt this application does not give consent for any ventilation system required for the hot food takeaway. A separate planning application will be required prior to any such system being installed.

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