



EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 4 JUNE 2010

**10/0171/PP: PROPOSED CHANGE OF USE TO FORM HOT FOOD TAKE-
AWAY FROM GROCER SHOP BY MR K CIRICK
AT 2 CENTRAL AVENUE
SHORTLEES, KILMARNOCK, KA1 4PT**

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This proposal involves the change of use of the existing grocer's shop with associated internal and external alterations to form a hot food takeaway/carry out.

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. There are no detailed policies of relevance in this instance in the Approved Ayrshire Joint Structure Plan. The proposal is considered to be compliant with Policy RTC15 of the Adopted East Ayrshire Local Plan and the application should therefore be approved unless material considerations indicate otherwise.

3.2 As indicated in Section 6 of the report, the proposal can be considered to comply with Policy RTC15 of the Alteration to the Local Plan (Finalised Version with Modifications). Notwithstanding the issues raised by the objectors, the parade of shops is an acceptable location for such a use.

3.3 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. In this instance the objections raised signify a degree of local concerns, but do not indicate that the application should be refused contrary to the development plan.

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.

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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 more than ten objections.

2. APPLICATION DETAILS

2.1 **Site description:** The application site comprises a standalone unit within the small parade of local shops at Central Avenue, Shortless. To the south is a similar arrangement of shops and local services, with Shortlees Parish Church sited between the two parades. Other units in the parade consist of a Post Office, hot food shop, and larger general store. The application unit currently trades as a general store. There is housing adjacent to the shops on Shortlees Crescent to the east and Central Avenue to the west; and parking for the shops to the front of the units.

2.2. **Proposed Development:** This proposal involves the change of use of the existing grocer's shop with associated internal and external alterations to form a hot food takeaway/carry out.

3. CONSULTATIONS AND ISSUES RAISED

3.1 There is no Shortlees Community Council at present.

3.2 East Ayrshire Council Roads and Transportation Service has no objections.

3.3 East Ayrshire Council Environmental Health and Licensing Service have no objections and suggest standard conditions that could be applied to any consent in terms of waste, drainage and ventilation details.

These matters could be addressed by conditions attached to any approval.

4. REPRESENTATIONS

4.1 One letter of objection on behalf of the residents of 5 Shortlees Crescent, one letter with attached petition from a neighbouring hot food shop with 18 signatures, and a further letter with a petition containing 17 signatures have 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:

[i] Increased litter, noise and activity – in summary, the effect another hot food shop in the parade would have on residential amenity.

Noting that the surrounding area is essentially of a residential nature, there is a potential for some impact upon residential amenity. However, the unit is situated in a small parade of shops and therefore can generally be viewed as an acceptable location for the provision of local facilities such as shops or hot food premises.

[ii] The proposals could lead to an increase in loitering, which could result in disturbance to the residents in the surrounding areas. This would lead to disturbance to surrounding properties.

It is accepted that this use by its very nature is one which would encourage early evening and late night activity as customers arrive and depart with purchases.

[iii] There is no need for the proposed use and that yet another hot food use in the vicinity might drive existing premises out of business.

This is not a material planning consideration and therefore cannot be taken into account in the assessment of this application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) (2007) which has no relevant detailed policies, and the Adopted East Ayrshire Local Plan (EALP) (2007).

Adopted East Ayrshire Local Plan (EALP) (2003)

5.2 Policy RTC15 states that development proposals for public houses and hot food takeaways 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;

No alterations are proposed to the design.

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

The Roads and Transportation Service has no objections.

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

It is considered that a hot food takeaway has the potential to create negative impacts in terms of litter, noise and odour. However, whilst the site property is within a wider residential area there is a degree of physical separation of the parade from the housing. The concerns of the objectors are noted, but given the location of the site in an existing parade of retail and other premises, it is considered that the proposed development would comply with Policy RTC15.

- (iv) are compatible with surrounding land uses.

The wider land use is primarily residential in nature with the current convenience shop forming part of the parade of commercial properties in the immediate locale. The proposal would therefore be compatible with other land uses in the immediate vicinity.

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 and letters of representation detailed in Section 3 of the report, the impact upon amenity and the planning history of the site.

Alteration To The East Ayrshire Local Plan (Finalised Draft With Modification)

6.2 The new Policy RTC15 considers the same aspects as that of the current adopted Policy RTC15, which is discussed in Section 5 of this report.

Consultation Responses

6.3 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.

Representations Received

6.4 Turning to the objections received, the concerns raised generally relate to litter, noise, and anti-social behaviour. It is accepted that whilst another hot food shop in this area could lead to some cumulative effect on the surrounding residential amenity, this is an acceptable location for local shops and facilities.

Planning History

6.5 There is no outstanding planning history for the site.

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. There are no detailed policies of relevance in this instance in the Approved Ayrshire Joint Structure Plan. The proposal is considered to be compliant with Policy RTC15 of the Adopted East Ayrshire Local Plan and the application should therefore be approved unless material considerations indicate otherwise.

8.2 As indicated in Section 6 of the report, the proposal can be considered to comply with Policy RTC15 of the Alteration to the Local Plan (Finalised Version with Modifications). Notwithstanding the issues raised by the objectors, the parade of shops is an acceptable location for such a use.

8.3 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. In this instance the objections raised signify a degree of local concerns, but do not indicate that the application should be refused contrary to the development plan.

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

MF/RH
21 May 2010

FV/DVM

List of Background Papers

1. Application form, plans and statutory notices/certificates;
2. Public Advertisements;
3. Statutory Consultations;
4. Representations received
5. Policy RTC 15 of the Adopted East Ayrshire Local Plan;
6. Policy RTC 15 of the Alteration to the East Ayrshire Local Plan (Finalised Draft);

Anyone wishing to inspect the above papers should contact Marion Fergusson on 01563 576769.

Implementation Officer: Dave Morris

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 10/0171/PP

Location	2 Central Avenue Shortlees Kilmarnock East Ayrshire
Nature of Proposal:	Proposed change of use to form hot food take away from grocer shop
Name and Address of Applicant:	Mr K Cirick 2 Central Avenue Kilmarnock
Name and Address of Agent	David Miller 6 Bannoch Gardens Kilwinning

Officer's Ref: Marion Fergusson
01563 576769

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

1. The proposed ventilation system shall be of such design as will minimise the likelihood of nuisance arising from fumes and/or odours. Full details of this shall be submitted to and approved by the Planning Authority in writing prior to the commencement of development on site and implemented thereafter in accordance with the approved details.

Reason: In the interests of residential amenity.

2. Provision shall to be made for the disposal of refuse from the premises and details shall be submitted to and approved by the Planning Authority before any development commences on the site.

Reason: In the interests of the amenity of the surrounding area.

Advisory Notes:

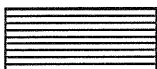

1. All waste arising from the works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.

2. All drainage should be completed to the satisfaction of Scottish Water and/or SEPA.

Reason for the Decision

The proposed development complies with the development plan and there are in this instance no material considerations which would justify refusing the development.



<p>Title/Location 2 Central Avenue, Kilmarnock Application No. 10/0171/PP</p>	<p>East Ayrshire Council Planning & Economic Development Division. 6 Croft Street Kilmarnock KA1 1JB Tel: (01563) 576790 Fax: (01563) 576774 E-Mail : Planning@east-ayrshire.gov.uk</p>
<p>Key</p>  <p>Application Site</p>	<p>Com Date: 4/6/2010 Checked By</p> 

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- GENERAL NOTES
1. Do not scale dimensions.
 2. All corners to be true to the dimensions on site prior to starting work on site.
 3. Contractors must ensure themselves to the full extent of the drawings & specification, in order to ensure that the work is carried out in accordance with the relevant British Standards & Codes of Practice.
 4. All materials & workmanship to comply with all relevant British Standards & Codes of Practice.
 5. If in doubt regarding the content or requirements of any of the works, please seek advice.
 6. To be read in conjunction with Architects Specification and any additional information supplied by Consultants.

- ELECTRICAL LEGEND
- ⊕ EXTERNAL LIGHT FITTING
 - ⊕ TWIN 13 AMP SWITCHED SOCKET OUTLET
 - ⊕ COOKER CONTROL SWITCH
 - ⊕ TELEPHONE SOCKET OUTLET
 - ⊕ Mechanical contact fan
 - ⊕ smoke detectors

All Electrical works to be carried out in accordance with the relevant requirements of BS7671:2001, The Requirements for Electrical Installations and in accordance with current IEE regulations.

THIS IS THE PRINCIPAL COPY/ TRUE COPY OF THE PLANS REFERRED TO IN THE APPLICATION

SIGNED

DATE

Rev	Date	Description	Rev	Date

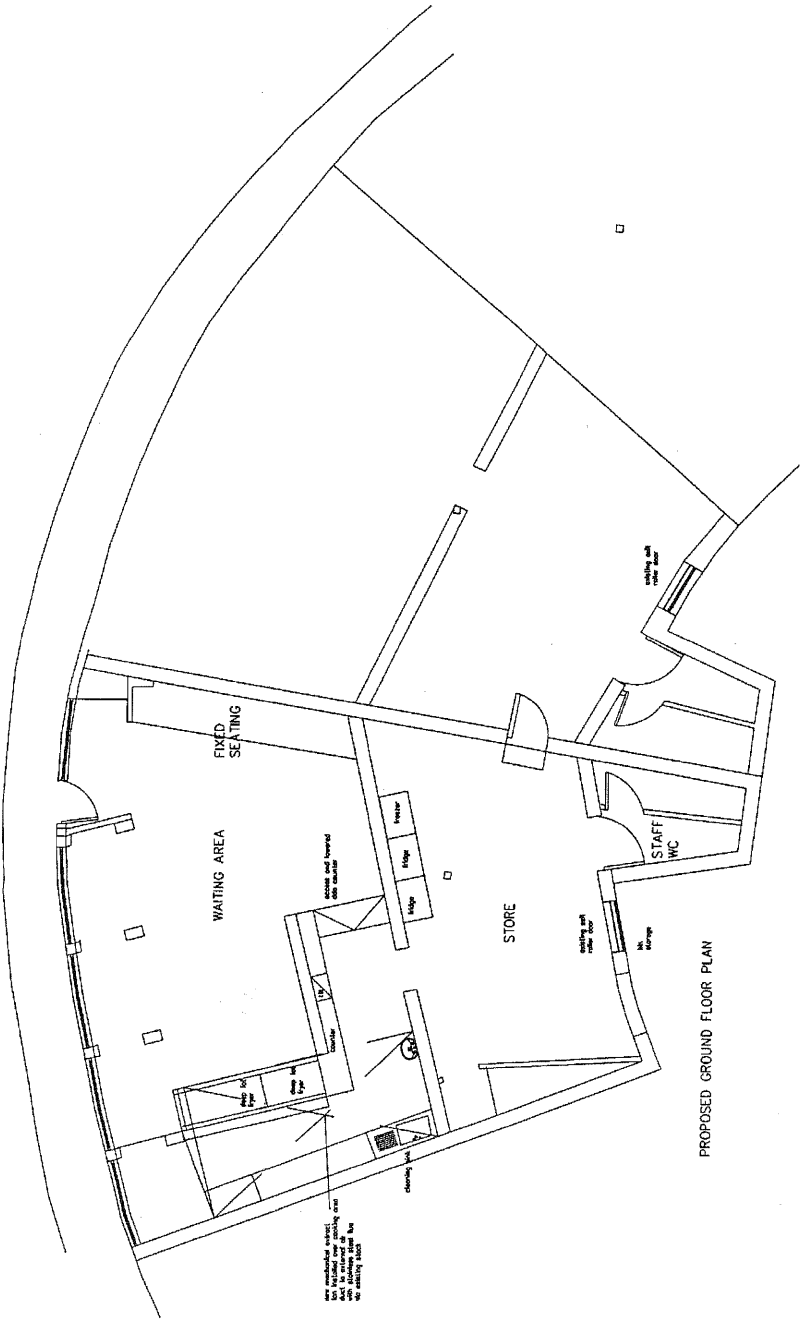
Client
Mr Cirk

Project
Proposed change of use to form food take away from grocer shop at : 2 Central ave, Kilnamock

Drawing Title
Proposed ground Floor Plan

Drawing Status
Planning and Building Warrant

Job no.	Drawing no.	Rev.	Scale
A001/	(BW) 02	-	1:100



PROPOSED GROUND FLOOR PLAN