

**EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 09 OCTOBER 2009**

**09/0397/FL: CHANGE OF USE OF EXISTING WAREHOUSE (CLASS 5) TO  
PHARMACY (CLASS 1) WITH PARKING TO FRONT  
AT: 16 HIGH GLENCAIRN STREET, KILMARNOCK, KA1 4AD  
BY DEANS HEALTHCARE LTD**

**Report by Head of Planning and Economic Development**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 This proposal involves the re-use of the existing building to provide a retail unit, which the applicant has indicated will be a chemists shop, with some consultation rooms that will be ancillary to the main use. Some minor elevation changes are proposed, in addition to the alteration of the existing pedestrian and vehicular access. There are no proposals to increase the existing floorspace of approximately 240 square metres. The external finish of the new shopfront will comprise powder coated aluminium in blue, with a small area of metal sheet profiling above the shopfront and fascia for signage. The areas either side of the door and shopfront will be wet dash render painted white. Internally it is proposed to have a sales area and four small consultancy rooms which the applicant's agent has confirmed will all be ancillary to the primary retail use. Four off-street parallel parking bays are indicated to the front, all within the curtilage of the application site, from which, loading/unloading and customer parking can take place.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.0 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Adopted Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (2003).

3.1 As indicated in Section 5 of the report the application is in accordance with the Development Plan, and would result in the re-use of a current vacant premises within

the town centre of Kilmarnock, and provide additional shopping provision. 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 The material considerations relevant to this application are indicated in Section 6 of the report and it is considered that none indicate that the application should be refused. The consultees do not recommend that the application should be refused. Whilst the concerns of the objectors are noted, the points raised are not echoed by the consultation response received from East Ayrshire Council Roads and Transportation Division. It is considered that the proposed development will result in the re-use of a vacant building as a new retail store and will provide an acceptable use within the town centre boundary of Kilmarnock which is the appropriate location to site uses such as proposed.

### **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 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 more than ten objections.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site comprises a vacant former warehouse with associated yard to the front at 16 High Glencairn Street, Kilmarnock. The building is single storey, with a mono pitched roof and is recessed some 12 metres from the regular street building line and surrounding buildings. The most recent occupants of the premises have been Rowebb Builders Merchants. To the north and south, the application site is bounded by traditional properties, commercial premises at ground floor and flatted dwellings above. To the east is the former depot that was associated with the builders merchants. The property is located within the current Kilmarnock Town Centre boundary designated within the Adopted East Ayrshire Local Plan as detailed in Section 5 of this report.

2.2 **Proposed Development:** This proposal involves the re-use of the existing building to provide a retail unit, which the applicant has indicated will be a chemists shop, with some consultation rooms that will be ancillary to the main use. Some minor elevation changes are proposed, in addition to the alteration of the existing pedestrian and vehicular access. There are no proposals to increase the existing floorspace of approximately 240 square metres. The external finish of the new shopfront will comprise powder coated aluminium in blue, with a small area of metal sheet profiling above the shopfront and fascia for signage. The areas either side of the door and shopfront will be wet dash render painted white. Internally it is proposed to have a sales area and four small consultancy rooms which the applicant's agent has confirmed will all be ancillary to the primary retail use. Four off-street parallel parking bays are indicated to the front, all within the curtilage of the application site, from which, loading/unloading and customer parking can take place.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Piersland and Bentinck Community Council have not responded to their consultation at the time of writing this report.

***Noted.***

3.2 East Ayrshire Council's Roads and Transportation Division have no objections, noting that the current proposal offers four parking spaces. They have further advised that as the site is located within the town centre, they would not have objected even if no parking had been proposed.

***Noted.***

3.3 The East Ayrshire Access Panel have no adverse comments although have made several recommendations or suggestions. Their comments relate to the following matters:

- 1) Design of entrance doors;
- 2) Level access being provided throughout the internal floor area and to entrance areas.
- 3) An accessible car parking space being provided.

***The agent for the applicant has confirmed that these issues can be addressed at Building Warrant stage and that the applicant is happy to make these minor changes to allow better movement in and around the premises. Only the raised pharmacy area would remain to allow the pharmacist to have an open or elevated view of the customers and premises as found traditionally in other such pharmacy facilities. If Members choose to grant consent, an appropriately worded condition can be incorporated to allow an accessible parking space to be provided.***

### 4. REPRESENTATIONS

4.1 Twenty one letters of objection, representing twenty objectors, have been received relating to the proposed development following the statutory neighbour notification process and public advertisement of the proposals. One letter of objection, however, has no address for the sender and could not therefore be acknowledged. The points of objection are as follows:

4.2 The location plan is not accurate as it does not show the new junction at High Glencairn and West Netherton Streets.

***Ordnance Survey and other proprietary forms of mapping are updated on a regular basis, however, at any given time, certain plans may not***

***show recent physical changes to a particular area. This is not a material consideration as the location plan lodged is on an acceptable OS base at an appropriate scale, with the application site readily identifiable.***

4.3 The entrance and exit to the property raises serious questions of safety, as it is adjacent to an existing bus stop, and is close to existing busy traffic junctions. The Roads Division have recently removed some of the parking bays in the vicinity and replaced these with double yellow lines. The adjacent wall to the entrance wall to the application premises, could become dangerous if clipped by a vehicle.

***Whilst these concerns as raised by the objectors are noted, the Council's Roads and Transportation Division have no objections to the proposals.***

4.4 There are no doctors' surgeries in the vicinity, and the question is raised as to why the public would wish to bypass the chemists' shops in the town centre or in other local areas in favour of this particular premises.

***The proposed development is for a Class 1 Retail Use which the applicant intends to operate as a pharmacy, with ancillary consultation rooms. As detailed in Section 5 of this report the proposals are considered to be in accordance with the relevant policies of the Adopted East Ayrshire Local Plan. The proposal will provide an acceptable retail use in the locality, which is within the town centre boundary. This area is already host to a range of shops and services.***

4.5 Kilmarnock is suffering a decreasing population and is becoming a commuter town for Glasgow: why is there a need for another pharmacy when there are sufficient existing units, and surely a variety of businesses is required to boost the 'dying town centre'?

***Members are advised that the 'need' for the development at this location is not a material planning consideration. As detailed in Section 4.4 and Section 5 of this report, the proposed development is considered to be in accordance with the relevant policies of the Adopted East Ayrshire Local Plan. As such the proposal will provide an acceptable retail use in the locality, which is within the defined town centre boundary. The range of uses identified in Schedule 5 of the Local Plan aims to encourage the vitality and viability of town centres in the Council area and the proposal is consistent with such uses.***

4.6 There is no justifiable need for another pharmacy and the proposal does not offer any unique service.

***'Need' is not a material planning consideration, and therefore is not a matter which should be taken into account in the assessment of this planning application.***

4.7 Applications have been refused in the past for this street. In particular, 33 High Glencairn Street was refused permission in favour of the current Deans Pharmacy on McPhail Drive.

***No such planning applications have been submitted for the above address, however, it is understood that this point of objection may refer to a process outwith the planning system in respect of registration with perhaps the National Health Service, which is not a material planning consideration.***

4.8 The proposals could lead to the dispensing of methadone and the potential treatment of heroin addicts at the premises could result in disturbance to the residents in the surrounding areas, and also discourage shoppers from venturing to this end of the town centre. Drug addicts could congregate in the pend at the front of the building and intimidate customers and passers by.

***If Members chose to grant consent for this proposal, then it would be for Class 1 Retail Use. The Use Classes Order states that a pharmacy is a retail use. The retail class can encompass a wide range of specific retail uses within the 'Use Class'.***

***Whilst moral, ethical and social issues have an impact on how society operates, the planning system is concerned with the regulation of the development of land and the use of buildings.***

***Customers congregating in the vicinity of the shop and behaving in an anti-social manner would be an issue for the police to control.***

4.9 If the proposal goes ahead, the area will be devalued and will experience a loss of amenity. As the rental market is competitive, future tenants may not wish to locate adjacent to a chemist shop and if this happens, the objector will look to the Council to bear compensation for loss of livelihood and loss of amenity. Modern pharmacies should be classed as 'bad neighbour' development.

***Noting the variety of uses in the locality, including public houses and hot food takeaways, it is not considered that the re-development of the former warehouse into a shop will have an adverse impact on the amenity of the area. Retail use in this locality is acceptable within the provisions of the adopted Local Plan as detailed in Section 5 of this report.***

***Members are further advised that the impact on property values or lack of prospective future tenants as a result of a proposed development is not a material planning consideration.***

***Whilst the concern regarding bad neighbour development is noted, there is no requirement to advertise this proposal within the applicable statutes.***

***The surrounding area predominantly consists of a mix of uses with commercial retail uses, some public houses, hot food takeaways and residential properties. This site is in a town centre location and it is considered that it is appropriate to encourage a range of uses which make the town centre successful in terms of its continuing vitality and viability.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 state that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) (2007) and the Adopted East Ayrshire Local Plan (EALP) (2003).

### 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 to be assessed against the EALP.

### 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 proposed external alterations respects the design of the original building and that the shopfront alterations are appropriate in terms of the Council's design guidance.***

5.4 Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail, commercial leisure developments and other uses appropriate to town centres as described in Schedule 5 of the Plan. Developers will be required to locate all such development firstly in town centres as identified on the Local Plan maps and secondly in edge of centres locations, in preference to out-of-town centre locations.

***As the site is located within the defined Kilmarnock town centre boundary, the proposal is considered to be fully in accordance with this policy. Noting that Retail is one of the acceptable uses listed in Schedule 5 of the local plan, the proposed development is considered to comply with this policy.***

5.5 RTC2 states that the types of development detailed in Schedule 5 of the Local Plan will be acceptable in principle, within town centres and on those development

opportunity sites identified as being suitable for such purposes on the Local Plan maps.

***Retail uses are included within Schedule 5 as uses that should be directed to the town centre. Kilmarnock town centre is therefore considered to be an acceptable location for such uses as it is an area where a mix of uses contributes to the diversity of the town centre.***

5.6 Policy RTC11 states that where a property falling within the classes of development detailed in Schedule 5 of the Local Plan becomes vacant or where a gap or infill site is available for redevelopment within Town Centres, the Council will encourage and support the re-use of the property or redevelopment of the site for appropriate similar Schedule 5 uses.

***The use of the premises as a retail unit will be an acceptable town centre use which will make productive use of a vacant property in an area that has both vacant and derelict/demolished properties in the immediate vicinity. It is therefore considered that the proposal is in accordance with this policy of the adopted Local Plan.***

5.7 Through Policy T3 the Council will require all developers to provide adequate car parking as an integral part of their development proposals to the standards laid down by the Council as Roads Authority. Parking standards for proposals relating to brownfield redevelopment sites within town centre areas, as shown on the Local Plan maps, may be relaxed by the Council where considered appropriate.

***The car parking provision proposed is acceptable to the Council's Roads & Transportation Division and the application therefore complies with the terms of this policy.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised Version) with Modifications, the consultation responses, the representations detailed in Section 3 of the report and the planning history of the site.

### East Ayrshire Local Plan (Finalised Version) with Modifications

6.2 Policy RTC1, states that the Council will 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; secondly, in edge of centre locations where no such town centre sites are available; and thirdly, in identified commercial centres in preference to out of centre locations.

Applicants proposing such developments in out of centre locations will be required to demonstrate to the satisfaction of the Council:

- (i) that no suitable alternative site can be found or assembled within town centres, in an edge of centre location or in an identified commercial centre: and
- (ii) that the chosen location is, or can be made, easily accessible by a choice of modes of transport.

***As the site is located within the Kilmarnock town centre boundary, the proposal is considered to be fully in accordance with this policy.***

6.3 Policy RTC2, states that subject to the provision of all other retail and town centre policies, the Council will ensure that all development proposals for the classes of development detailed in Schedule 6(i) of the Local Plan are commensurate with the size and function of the area or settlement within which they are proposed. In this regard:

- (i) all major retail and other Schedule 6(i) uses of East Ayrshire wide impact and importance are directed to the main town of Kilmarnock;

***This application proposes to re-use a town centre property for a Class 1 Retail Use, as identified in Schedule 6 of the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications). Kilmarnock town centre is the appropriate location for this type of development.***

6.4 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 use of the premises as a retail unit will be an acceptable town centre use which will make productive use of a vacant property, in an area that has both vacant and derelict/demolished properties in the immediate vicinity and should be supported as being in line with the adopted Local Plan.***

6.5 Through Policy T4, the Council will require all developers to provide appropriate car parking as an integral part of their development proposals to the standards laid down by the Council as Roads Authority and in line with the provisions of the Council's proposed Parking Management Strategy. Parking standards for proposals relating to brownfield redevelopment sites within town centre areas may be relaxed by the Council where considered appropriate. Developer contributions will be directed, as considered appropriate and necessary, towards supplementing and improving the overall supply of public parking areas within town centres.

***The car parking provision proposed is acceptable to the Council's Roads & Transportation Division and the application therefore complies with this policy.***

6.6 Through Policy ENV9, the Council will actively encourage and demand the highest possible standards of design from applicants in the formulation of their development proposals. All developers will be expected to comply fully with the Council's existing design guidance 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 respects the design of the original building and that the shopfront alterations are appropriate in terms with the Council's design guidance.***

#### Consultation Responses

6.7 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

6.8 The concerns raised in the letters of objection generally relate to loss of amenity, traffic impact, road and public safety and anti-social behaviour perceived from the proposed use. Many of the points raised by the objectors are not based on planning grounds and are therefore not material to the determination of the application. Whilst noted, the concerns of objectors are not echoed by the consultation responses received from East Ayrshire Council Roads and Transportation Division.

6.10 Whilst the objectors' concerns about a pharmacy are noted, in planning terms this is a Class 1 Retail Use which is acceptable in this locality within Kilmarnock's town centre. The Use Classes Order stipulates a range of individual uses which collectively fall within the 'retail' class and the East Ayrshire Local Plan (Adopted) indicates that these uses should be directed to the town centre.

#### Planning History

6.10 There is no planning history for this application site that would affect the determination of this planning application.

***Noted.***

## Amenity Considerations

6.11 Whilst the concerns of the objectors in terms of the impact on amenity are noted, Members are advised that this is a mixed use area within Kilmarnock's town centre boundary. This locality is therefore an area where commercial and business uses will be in closer relationship with residential uses and this is supported by the Local Plan.

## **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**

8.0 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Adopted Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (2003).

8.1 As indicated in Section 5 of the report the application is in accordance with the Development Plan, and would result in the re-use of a current vacant premises within the town centre of Kilmarnock, and provide additional shopping provision. 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 The material considerations relevant to this application are indicated in Section 6 of the report and it is considered that none indicate that the application should be refused. The consultees do not recommend that the application should be refused. Whilst the concerns of the objectors are noted, the points raised are not echoed by the consultation response received from East Ayrshire Council Roads and Transportation Division. It is considered that the proposed development will result in the re-use of a vacant building as a new retail store and will provide an acceptable use within the town centre boundary of Kilmarnock which is the appropriate location to site uses such as proposed.

## **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**

MF/KW  
28 September 2009

### **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.

### **List of Background Papers**

1. Application form, plans and statutory notices/certificates
2. Consultations Responses
3. Letters of Objection
4. Approved Ayrshire Joint Structure Plan
5. Adopted East Ayrshire Local Plan
6. Finalised East Ayrshire Local Plan with Modifications

Anyone wishing to inspect the above papers should contact Marion Fergusson Senior Planning Officer, on 01563 576769.

***Implementation Officer: Dave Morris***

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 09/0397/FL

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Site of Proposal:	16 High Glencairn Street, Kilmarnock, East Ayrshire, KA1 4AD
Nature of Proposal:	Change of Use of Existing Warehouse (Class 5) to Pharmacy (Class 1) with Parking to Front
Name & Address of Applicant:	Deans Healthcare Ltd 53 MacPhail Drive Kilmarnock KA3 7ET
Name & Address of Agent:	David Jarvie 27 Aytoun Road Glasgow G41 5HW

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DPO's Reference: DW/KW

The above FULL PLANNING application should be granted subject to the following conditions:-

1. Notwithstanding the approved plans and prior to any work commencing on site, details regarding the storage and collection of all waste arising from the business; including the provision of additional customer litter bins if necessary, and the location, design, capacity, screening (including planting proposals) and external finish of the refuse store; shall be submitted to and approved in writing by the Planning Authority. The approved scheme shall be implemented as approved prior to the use hereby approved commencing trading and shall be maintained thereafter.

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, one of the four proposed off street parking spaces shall be allocated for use solely by disabled badge holders and shall be so demarcated on site. Full details of this disabled parking bay 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 the unit hereby approved commencing trading.

REASON In the interests of road safety.

3. Notwithstanding the approved plans, details and samples of all external materials shall be submitted to and approved by the Planning Authority in writing prior to the commencement of any development on site and shall be implemented on site as approved, prior to the use commencing trading and shall be maintained thereafter.

REASON In the interests of visual amenity.

4. Notwithstanding Condition 2 above, all parking spaces detailed on the approved plans shall be formed on site prior to the commencement of trading on site and shall be maintained thereafter.

REASON In the interests of road safety.

**NOTES:-**

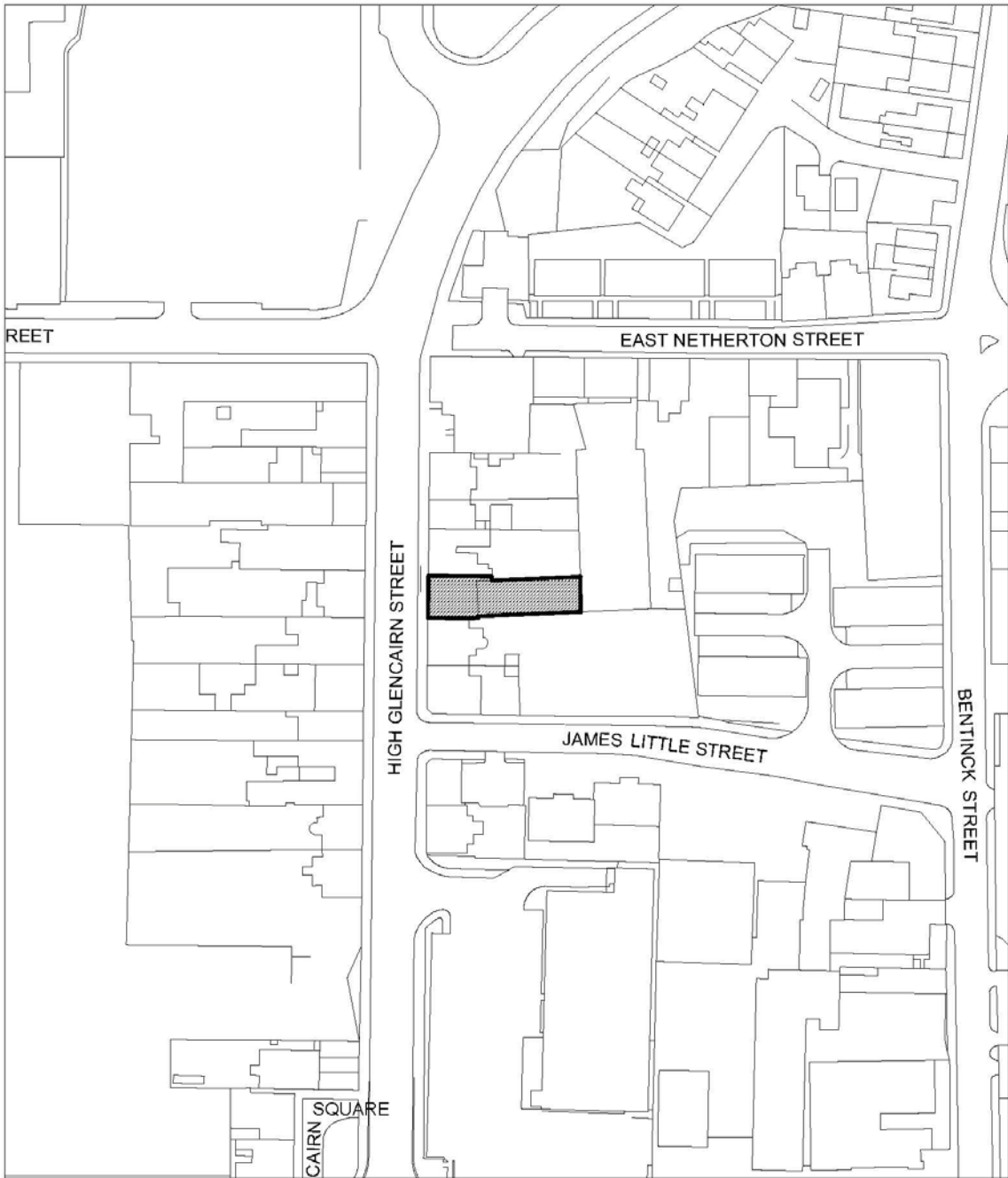
1. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.



2. The developer shall make early contact with East Ayrshire Council's Roads and Transportation Division at Greenholm Street, Kilmarnock or on 01563 576310 relative to any road opening permits which may be required.

3. 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.

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

5. 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.



<p>Title/Location    <b>16 High Glencairn Street</b> <b>kilmarnock</b> <b>Application No. 09/0397/FL</b></p>	<p>East Ayrshire Council Planning &amp; Economic Development Division. 6 Croft Street Kilmarnock KA1 1JB Tel: (01563) 576790    Fax: (01563) 576774 E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a> <b>Com Date: 09/10/09</b>    <b>Checked By</b></p>
<p>Key</p>  <p><b>Application Site</b></p>	

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