

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 9 OCTOBER 2009**

**09/0029/FL: INSTALLATION OF AUTOMATIC PUBLIC CONVENIENCE  
AT THE FOREGATE SQUARE, KILMARNOCK  
BY EAST AYRSHIRE COUNCIL**

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

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to install a modern automatic public convenience in front of the Gateway Centre. The unit is a stand-alone structure and of modern design.

#### **2. RECOMMENDATION**

2.1 It is recommended that the application should be approved subject to the conditions 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. 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).

3.2 The proposed development accords with the Adopted East Ayrshire Local Plan and the design (including external materials), scale and siting of the structure is acceptable within the surroundings. In particular it is considered that the proposed public convenience will sit comfortably with the existing streetscape and street furniture. There are no material considerations to direct that the application should be refused. It is considered that the public convenience will provide additional facilities in Kilmarnock commercial core for all users of the town centre within a central location.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning & Economic Development then the

application will not require to be referred to Full Council as that would not be a significant departure from Council 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: 9 OCTOBER 2009

### 09/0029/FL: INSTALLATION OF AUTOMATIC PUBLIC CONVENIENCE AT THE FOREGATE SQUARE, KILMARNOCK BY EAST AYRSHIRE COUNCIL

#### 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 the Council is the applicant.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of the Foregate Square to the front of the Gateway Centre. It is proposed to site the public convenience to the left of the entrance at the front elevation of the building. The application site is bounded by this building and the Foregate Square, beyond which are other commercial uses including the bus station and multi-storey car park.

2.2 **Proposed Development:** It is proposed to install a modern automatic public convenience in front of the Gateway Centre. The unit is a stand-alone structure and of modern design.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Environmental Health Division have no objections and provide guidance on conditions including hours of construction, noise from these construction works, the burning of construction waste and drainage.

***Noted. Should Members choose to grant consent, it would be appropriate to include a condition that the applicant confirms that all drainage is to Scottish Water and SEPA's satisfaction.***

***The other matters are noted however all are within Environmental Health's jurisdiction, if for example, a nuisance was caused during construction works. In this instance it is noted that the site is located within the centre of Kilmarnock and surrounded by mostly commercial uses. It is not therefore considered that conditions relating to working hours and noise/waste from construction need to be included.***

3.2 East Ayrshire Council Roads and Transportation Division have no objections provided the precise sewer details are submitted. They have also advised that a revised location requires to be agreed for the bicycle shed and that the applicant's will require a Road Opening Permit.

***Noted. If Members choose to grant consent, the details of the sewer line and relocated bicycle shed can be conditioned. The applicant can also be advised via an advisory note about the requirement for a Road Opening Permit.***

3.3 East Ayrshire Council's Assest Management Section have not responded at the time of writing this report.

***Noted.***

3.4 Scottish Water have no objections.

***Noted.***

3.5 SEPA (Scottish Environment Protection Agency) have no objections but provide comments in relation to public sewer connection, surface water and SUDS and pollution prevention.

***Noted. If Members choose to grant consent, conditions relative to SUDS and drainage connection can be incorporated and an advisory note can be included concerning pollution prevention.***

3.6 Piersland-Bentick Community Council have not responded to their consultation at the time of writing this report.

***Noted.***

3.7 The East Ayrshire Access Panel have no objections although they have requested wheelchair level access and details of internal finishes to give contrasting colours for ease of use.

***Noted. These comments were forwarded to the applicant's agent and will be addressed through the Building Warrant process.***

#### **4. REPRESENTATIONS**

4.1 No letters of representation have been received following neighbour notifications and public advertisement of 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. The Development Plan comprises the Approved Ayrshire Joint Structure Plan (AJSP) (2007) and the Adopted East Ayrshire Local Plan (EALP) (2003).

### Ayrshire Joint Structure Plan

5.2 There are no specific policies in the adopted Structure Plan to assess the development against. The application therefore falls to be assessed against the policies of the adopted local plan.

### Adopted East Ayrshire Local (EALP) (2003)

5.3 Policy CS1 states that the Council will respond positively to changing needs and demands for community facilities throughout East Ayrshire. Wherever possible, existing facilities will be retained and improved and support and encouragement will be given to all other community facility and public service organisations to maintain and improve these facilities.

***Noted. This application seeks to provide a modern public convenience in a central location within Kilmarnock's core commercial area to benefit all users of the town centre. The proposed development complies fully with this facility.***

## 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 planning history of the site and amenity considerations.

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

6.2 For clarity, whilst development proposals will continue to be assessed first and primarily against the adopted Local Plan, the Council has now given authority for an appropriate and proportionate degree of weight to be given to the Alteration to the East Ayrshire Local Plan in the determination of planning applications. In this case, significant weight can be given to Policy CS1 which is identical to policy CS1 in the Adopted East Ayrshire Local Plan as highlighted in Section 5 of this report.

***Noted. Compliance with the adopted EALP is noted and it is also considered that the proposal accords with the provisions of Policy CS1 and would be supported by the Alteration.***

## Consultation Responses

6.3 None of the consultation responses that have been received recommend that the application should be refused.

## Representations Received

6.4 No letters of representation have been received.

## Amenity

6.5 The design, scale, and siting of this structure is acceptable within the context of visual amenity. The external materials are also acceptable whilst noting that the proposed colour will tie in with the existing street furniture which was installed as part of a large scale environmental improvement project within the town centre. In order to ensure that any repair works are appropriate to these streetscape works, if Members choose to grant consent, it is recommended that a condition be included requiring that any repair works to the streetscape be undertaken re-using existing materials if possible or using matching materials.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council relative to this application. The Council is however the applicant and under the Scottish Planning Series: Planning Circular 3/2009: "Notification of Planning Applications", this is a Category 1 application where the Council has an interest. The application is not required to be notified to Scottish Ministers as it is in accordance with the Development Plan as detailed in Section 5 of this report.

## **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. 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).

8.2 The proposed development accords with the Adopted East Ayrshire Local Plan and the design (including external materials), scale and siting of the structure is acceptable within the surroundings. In particular it is considered that the proposed public convenience will sit comfortably with the existing streetscape and street furniture. There are no material considerations to direct that the application should be refused. It is considered that the public

convenience will provide additional facilities in Kilmarnock commercial core for all users of the town centre within a central location.

## **8. RECOMMENDATION**

**It is recommended that the application should be approved subject to the conditions 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 & Economic Development then the application will not require to be referred to Full Council as that would not be a significant departure from Council policy.

**Alan Neish**  
**Head of Planning & Economic Development**

29 September 2009  
(FMF/IMB)

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Representations
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003)
6. Finalised Draft with Modifications, East Ayrshire Local Plan.
7. Approved Ayrshire Joint Structure Plan (2007)

Anyone wishing to inspect the above papers please contact Fiona Finlay  
Principal Planning Officer, on 01563 576798

***Implementation Officer: Dave Morris***

## EAST AYRSHIRE COUNCIL

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

Application No: 09/0029/FL

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Site of Proposal:	The Foregate Square, Kilmarnock, Ayrshire
Nature of Proposal:	Installation of automatic public convenience
Name & Address of Applicant:	East Ayrshire Council Western Road Kilmarnock KA3 1LL

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DPO's Reference: FMF/KW

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

1. Prior to any work commencing on site, details of a new location for the existing bicycle stand shall be submitted to and approved in writing by the Planning Authority.

Reason: To ensure that the bicycle stand is relocated in order to provide appropriate cycle facilities with the town centre.

2. Further to Condition 2 above the bicycle stand shall be relocated as approved within 3 months of the date of its new location being approved by the Planning Authority.

Reason: To ensure that the bicycle stand is relocated in order to provide appropriate cycle facilities with the town centre.

3. Details of any remedial work to the granite setts and paving slabs as a result of the installation of the approved public convenience shall be submitted to and agreed in writing by the Planning Authority within one month of the public convenience being installed. No remedial work shall be undertaken until the extent of works has been agreed in advance with the Planning Authority.

Reason: In the interests of maintaining the streetscape works in the town centre.

4. The remedial works hereby approved as part of Condition 4 above, shall be implemented as agreed on site within three months of the date of the extent of works being agreed by the Planning Authority.

Reason: In the interests of maintaining the streetscape works in the town centre.

5. Prior to any work commencing on site, the applicant will provide written evidence to the Planning Authority that the drainage of the proposed development has been agreed with Scottish Water and SEPA.

Reason: In order to ensure adequate drainage for the proposed development.

### Notes

1. The applicant is advised to make early contact with Scottish Water (Developer Services) on 0845 601 8855 with regard to water supply and drainage.

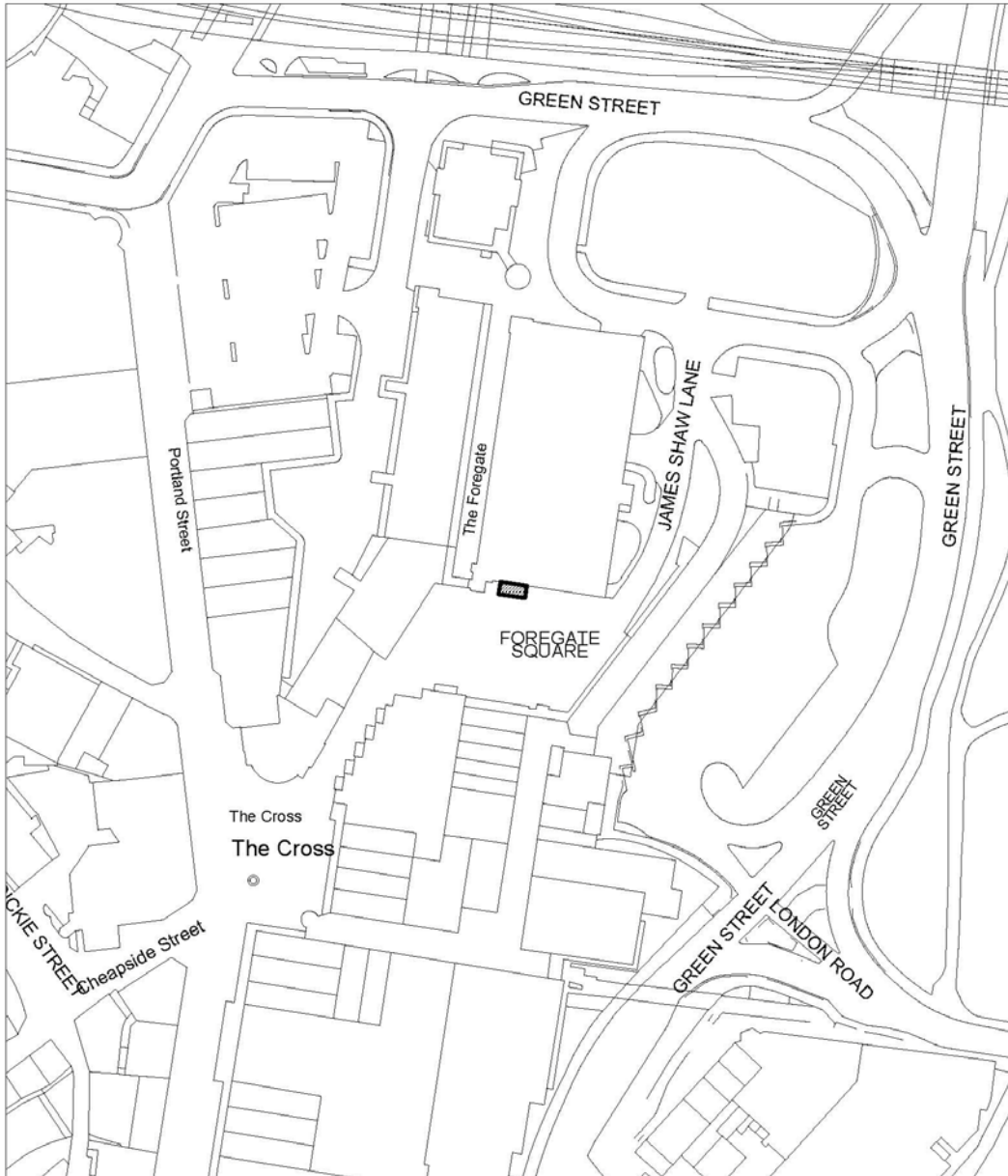
2. The applicant is advised to make early contact with the Scottish Environment Protection Agency on 01355 574 200 or at Redwood Crescent, East Kilbride, G74 5PP with regard to drainage arrangements.



3. The applicant is advised to make early contact with East Ayrshire Council's Roads and Transportation Division on 01563 576310 or at Greenholm Street, Kilmarnock to discuss any statutory consents that might be required such as a Road Opening Permit. In this respect the applicant is advised to note the following:-

a) An outlet may not be achievable at this location despite Scottish Water's response.

b) Precise details of the new sewer line will have to be submitted prior to a road opening permit being granted. It will not be acceptable to excavate the existing paving slabs within the Square in search of an outlet or to discover the location of other services.

4. Construction works associated with the development shall be carried out in accordance with SEPA's guidelines on avoidance of pollution, and reference should be made to the relevant Pollution Prevention Guidance (PPG) from SEPA. Any waste materials imported to the site should be stored and used only in accordance with the waste management licence or exemption under the Waste Management Licensing Regulations 1994 as amended. Any water materials removed from the site must be disposed of at a suitably licensed or exempt waste management facility in accordance with these Regulations.



<p>Title/Location    <b>Foregate Square</b></p> <p>                          <b>Kilmarnock</b></p> <p>                          <b>Application No. 09/0029/FL</b></p>	<p>East Ayrshire Council</p> <p>Planning &amp; Economic Development Division.</p> <p>6 Croft Street Kilmarnock KA1 1JB</p> <p>Tel: (01563) 576790    Fax: (01563) 576774</p> <p>E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a></p> <p>Com Date: 09/10/2009    Checked By</p>
<p>Key</p> <p> <b>Application Site</b></p>	<p style="text-align: center;"></p>

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