

**EAST AYRSHIRE COUNCIL**

**SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE:  
15 DECEMBER 2010**

**09/0628/PP: CHANGE OF USE FROM DWELLING AND ALTERATIONS TO  
FORM HOT FOOD CARRY OUT  
AT: 5A BARBIESTON ROAD, DALRYMPLE  
BY MR JOHN MURPHY**

**Click for Application Details:** <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=09/0628/PP>

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The proposed development comprises a change of use to form a hot food takeaway and the installation of a flue through the rear wall which extends upwards past the gutter level. The flue will be finished in stainless steel. Furthermore, internal and external alterations are proposed which comprise a change from a window to a door on the front elevation and a rearrangement internally to form a food counter and kitchen area.

**2. RECOMMENDATION**

**2.1 It is recommended that the application should be refused for the reasons indicated on the attached sheet.**

**3. CONCLUSIONS**

3.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

3.2 As indicated in Section 5 of the report, the proposal can be considered to be contrary to the terms of the Adopted Local Plan as the proposal does not meet with the requirements of the Council as Roads Authority, will adversely effect the setting and appearance of the Conservation Area and is likely to have an adverse impact on the amenity of nearby residential properties.

3.3 The material considerations of this application have generally indicated that the application should be refused. The consultees have raised concern with the development including a recommendation for refusal by the Roads Service and an objection by the Community Council. Environmental Health

has also indicated that the current proposals do not fully meet the relevant standards with regard to the flue, therefore a revised detail would create an even greater adverse impact to the Conservation Area. The objectors have raised road safety and amenity concerns which are considered to be reasonable given the characteristics of the site and the surrounding area particularly given its residential character and the Conservation Area designation.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to 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 Southern Local Planning Committee under the scheme of delegation as it is the subject of more than 10 objections.

**2. APPLICATION DETAILS**

2.1 **Application Site:** The application site comprises of a split level storey semi detached dwellinghouse set within the Dalrymple Conservation Area. The building is finished in stone with a slate roof including dormer and is one and a half storeys in height at the front and two and a half storeys in height at the rear.

2.2 The application site is bounded by Barbieston Road to the west with dwellings on the other side of this road. A post office immediately adjoins the site forming the other half of the semi detached unit and a driveway, small commercial car garage and dwellings are located further south of the post office. To the east and north of the site are a large garden area and agricultural fields.

2.3 **Proposed Development:** The proposed development comprises a change of use to form a hot food takeaway and the installation of a flue through the rear wall which extends upwards past the gutter level. The flue will be finished in stainless steel. Furthermore, internal and external alterations are proposed which comprise a change from a window to a door on the front elevation and a rearrangement internally to form a food counter and kitchen area.

**3. CONSULTATIONS RECEIVED**

3.1 Dalrymple and District Community Council has objected to the application. The points of objection are that the property is in a Conservation Area and would not be in keeping with surrounding properties and also that

the proposal would raise road safety issues as it is at the corner which is a bottleneck and has high volumes of traffic passing as well as deliveries to the adjacent post office and shop.

***The points raised by the Community Council are noted. The Roads Service are in agreement with the Community Council with regard to the impact on the local road network at this point. Whilst this area of the Conservation Area is predominantly residential in nature, it should be noted that the adjacent property is a shop unit with a small commercial garage adjacent. A hot food takeaway will therefore be out of keeping with the existing uses by its very nature.***

3.2 East Ayrshire Council Environmental Health Service have no objections although offered comments on construction working times, construction noise, waste disposal, drainage, the installation of a wash hand basin, acoustically isolating the flue from the first floor room and general building structure, the flue should terminate 500mm above the ridge level of the property and that the flue should comply with the DEFRA Guidance document "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems".

***The comments referred to by Environmental Health are matters which can be controlled by their own nuisance legislation, or through the Building Warrant process. The flue as proposed clearly does not meet with the requirements of the Environmental Health Service as it does not terminate at the required height.***

3.3 East Ayrshire Council Roads and Transportation Service have recommended refusal of the application. The recommendation is based on the impact on road safety, as existing on road parking problems on the inside of the bend associated with the current shop and post office could be made worse.

***The Roads Service advice is noted.***

3.4 Scottish Water has no objections to the application but advises that appropriately sized grease traps should be installed on all drainage outlets from food preparation areas

***Noted.***

3.5 Cumnock and Doon Valley Access Panel have asked that level access be provided.

***Noted.***

## 4. REPRESENTATIONS

4.1 Twenty two letters of objection have been received to this application including those of the Community Council detailed at section 3.1 above. The main issues raised have been summarised and grouped and are as follows;

### **Impact on the Conservation Area**

4.2 The proposal is detrimental to the Conservation Area as it will completely alter the façade of the post office house which would not be in keeping with originality of the buildings or the ethic of the Conservation Area and may be a precedent for similar requests for alterations.

4.3 The Conservation Area should be preserved by leaving houses for people to dwell in and facilities should be planned in a systematic way, for example a parade of shops properly planned and laid out with ample parking and safe lighting.

***The proposed works are considered to be relatively poor and by introducing a new door in place of the window the frontage is considered to be less balanced than the existing arrangement. Furthermore, the flue to the rear will be very visually prominent when viewed from the north east of the site on the Barbieston Road which will adversely impact on the setting of the Conservation Area. This adverse impact would be further compounded based on the comments of the Environmental Health Service as the current flue does not extend beyond the ridge line therefore any extension upwards of the flue will create an extremely adverse visual impact from the south east and also from other directions.***

### **Parking and access issues**

4.4 Cars regularly double park and also park on the speed bumps, across existing accesses and in neighbouring streets to access the post office and shop, the pharmacy and the Kirkton Inn.

4.5 The mobile post office is parked nightly within the space identified on the application form as parking for the proposed takeaway. This reduces parking and also blocks off the two garages which are presumably part of the parking allocation.

4.6 The parking situation causes problems for emergency vehicles, buses and pedestrians because of the narrowness of the road and the volume of parked cars on the blind corner.

4.7 When there has been an accident or incident on the A77 or A713, traffic is often redirected through Dalrymple which massively increases the

volume of traffic and the congestion throughout the area which will be exacerbated by this proposal.

***The comments of the objectors with regard to parking at this location are shared by the Roads Service who have recommended refusal of the application based on this issue. It is noted that the road is narrow at this location and there is a lack of adequate off street parking in general leading to unacceptable on street parking at this location which is detrimental to road safety.***

#### **General amenity, noise and disturbance issues**

4.8 The takeaway is likely to provide a meeting point for youngsters. Groups of young people can be noisy and intimidating and there may be an increase in nuisance behaviour and vandalism.

4.9 The comings and goings of customers generate noise which will add to the noise from patrons leaving the Kirkton Inn and will disturb local residents even further.

4.10 The proposed use could attract vermin, particularly given its proximity to the River Doon.

4.11 The proposed use will create significant levels of litter which will add to the existing litter problems in the area given a lack of bins. This includes local residents regularly having to pick litter from their gardens.

4.12 The proposal will generate cooking odours and smells.

***Any anti social behaviour or vandalism is a police matter and is beyond the control of the Planning Authority. Other than various comments about certain elements of the proposal including changes to the scheme, the Environmental Health Service have not indicated that the use is fundamentally unacceptable with regard to noise, vermin or smells. This does not however stop them from pursuing such issues should they occur after any grant of planning consent. With regard to litter, it is common that litter bins be provided in conjunction with such uses therefore any grant of planning consent could include a condition relating to the provision of litter bins.***

#### **Other issues**

4.13 There is no need for such a facility as free deliveries can be obtained from nearby towns. Furthermore there is a mobile fish and chip unit as well as the Main Street corner shop and the Kirkton Inn.

4.14 Health and obesity concerns which takeaway food contributes to.

***The need for such facilities and any health concerns that arise from or are associated with such uses are not material planning considerations that can be taken into consideration in the determination of this application.***

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

5.1 For the purposes of this application the Development Plan comprises the Adopted East Ayrshire Local Plan 2010.

### Adopted East Ayrshire Local Plan 2010

5.2 The policies that are relevant to this application are RTC15, ENV7 and ENV9. Under policy RTC 15 development proposals for hot food takeaways in locations outwith town centres may be acceptable to the Council subject to certain criteria. These include meeting with the Councils design and layout policies, meeting the requirements of the Council as Roads Authority, not having an detrimental effect on amenity of adjacent properties by reason of noise, litter, odour or other disturbance and are compatible with surrounding land uses.

***The alterations to the front of the property and the visual prominence of the flue from the north east direction are considered to be poor and do not positively contribute to the character or appearance of the Conservation Area. The proposed development also does not meet with the requirements of the Council as Roads Authority as detailed at section 3.3 above and the parking situation will also adversely impact on those properties in the immediate vicinity of the area. Given the generally residential nature of the surrounding properties it is also considered that the proposal will be detrimental to the amenity of adjacent properties by reason of noise and litter generation.***

5.3 Policy ENV 7 requires that development within Conservation Areas complies with the Councils Design Guidance and will not be supportive of any development that is unsympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish.

***The Councils design guidance requires that development within a Conservation Area seeks to preserve, enhance or incorporate features which contribute positively to the character or appearance of the area. The frontage of the property is currently well balanced and positively contributes to the Conservation Area however the alterations will bring two sets of doors on the frontage which significantly alters the residential character of the property. Furthermore, the flue to the rear is visually prominent and out of character with the area by reason of its position, design and material finish and as such is unsympathetic to the surrounding area.***

5.4 Policy ENV 9 is also relevant in respect of the external works to create the new door opening and to form the external flue. These policies require that alterations be appropriate and observe the traditional historic character of the Conservation Area and also comply with the Council's Design Guidance.

***As noted at section 5.3 above, the frontage alterations and the flue are not considered to meet with the Councils Design Guidance by reason of altering the residential character of the property and bringing an adverse visual impact to the Conservation Area.***

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

6.1 The principal material considerations relevant to the determination of this application are the consultation responses, the letters of representation and the impact upon amenity of the area.

### Consultation Responses

6.2 The consultation response from the Roads Service in particular indicates that the proposal is unacceptable for road safety reasons given a lack of parking for such a use. The Community Council has objected to the development for the same reason as well as its adverse impact on the Conservation Area. Whilst the Environmental Health Service has not objected, they have advised that the current flue arrangement is unsatisfactory and will require to extend higher than currently shown. Any such height increase would clearly have an adverse impact on the setting of the Conservation Area.

### Representations Received

6.3 The concerns raised by the objectors over the difficult parking situation are shared by the Roads Service. The section of street is narrow with little suitable off street parking provided and by the very nature of such proposals patrons are likely to park on street in front of and near to the site. This has road safety implications for the surrounding road network. Furthermore, the objectors are considered to be correct with their comments on the adverse visual impact that this development will have on the Conservation Area and the general amenity of the surrounding area through noise and litter generation in a predominantly residential area.

### Impact upon the Amenity of the Area

6.4 As noted elsewhere within this report, the external alterations to the existing window and the provision of a rear flue are both considered to be visually intrusive and not in keeping with the character of the Conservation Area. The proposed takeaway use is likely to exacerbate an already challenging parking situation and increase noise and litter levels in a

predominantly residential area which will have an adverse impact on residential amenity.

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

7.1 There are no financial or legal implications for the Council in the determination of this application.

## **8. CONCLUSIONS**

8.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.2 As indicated in Section 5 of the report, the proposal can be considered to be contrary to the terms of the Adopted Local Plan as the proposal does not meet with the requirements of the Council as Roads Authority, will adversely effect the setting and appearance of the Conservation Area and is likely to have an adverse impact on the amenity of nearby residential properties.

8.3 The material considerations of this application have generally indicated that the application should be refused. The consultees have raised concern with the development including a recommendation for refusal by the Roads Service and an objection by the Community Council. Environmental Health has also indicated that the current proposals do not fully meet the relevant standards with regard to the flue, therefore a revised detail would create an even greater adverse impact to the Conservation Area. The objectors have raised road safety and amenity concerns which are considered to be reasonable given the characteristics of the site and the surrounding area particularly given its residential character and the Conservation Area designation.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application should be refused for the reasons indicated on the attached sheet.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to Council as this would not constitute a significant breach of policy.

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

3 December 2010

DW/RH

FV/DVM

### **List of Background Papers**

1. Application form, plans and statutory notices/certificates
2. Public Advertisements
3. Consultation responses
4. Representations received
5. Adopted East Ayrshire Local Plan 2010

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

TP24

**East Ayrshire Council**

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

**Application No: 09/0628/PP**

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Location	5A Barbieston Road Dalrymple East Ayrshire KA6 6DZ
Nature of Proposal:	Change of use from part dwelling and alterations to form hot food carry out
Name and Address of Applicant:	Mr John Murphy 5 Barbieston Road Dalrymple Ayr KA6 6DZ
Name and Address of Agent	

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Officer's Ref: David Wilson  
01563 576779

The above application for Planning Permission should be refused for the following reasons;



1. The proposed development would be contrary to Policy RTC 15 of the Adopted East Ayrshire Local Plan 2010 as the design of the front elevation and flue does not meet with the Councils design guidance.
2. The proposed development would be contrary to Policy RTC 15 of the Adopted East Ayrshire Local Plan 2010 as the parking provision does not meet with the requirements of the Council as Roads Authority.
3. The proposed development would be contrary to Policy RTC 15 of the Adopted East Ayrshire Local Plan 2010 as it will have a detrimental effect on the amenity of adjacent properties by reason

of increased noise disturbance and litter.

4. The proposed development would be contrary to Policy RTC 15 of the Adopted East Ayrshire Local Plan 2010 as it is not compatible with the predominantly residential surrounding land uses and is therefore likely to adversely affect these properties by reason of noise, disruption, litter and parking.
5. The proposed development would be contrary to Policy ENV 7 of the Adopted East Ayrshire Local Plan 2010 as the alterations to the front elevation and installation of an extract flue are unsympathetic to the setting and character of the Dalrymple Conservation Area by reason of their size, design, siting and materials.
6. The proposed development would be contrary to Policy ENV 9 of the Adopted East Ayrshire Local Plan 2010 as the alterations to the front elevation and installation of an extract flue by reason of their size, scale and materials would result in an adverse visual impact on the setting of the building and the Dalrymple Conservation Area.





<p>Title/Location     <b>5A Barbieston Road,</b> <b>Dalrymple</b> <b>Application No. 09/0628/PP</b></p>	<p><b>East Ayrshire Council</b> Department of Neighbourhood Services Planning &amp; Economic Development Service. 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: 15/12/20210</b></p> 
<p>Key</p>  <p><b>Application Site</b></p>	

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