

**SOUTHERN LOCAL PLANNING COMMITTEE: 26 NOVEMBER 2010**

**09/0537/PP: CHANGE OF USE OF PART OF UNUSED OFFICES,  
WORKSHOPS AND TOILETS TO COFFEE SHOP AND CHANGE OF USE  
OF UNUSED FACTORY SPACE TO NEW SALES AREA**

**AT FACTORY SHOP CRAIGENS ROAD, NETHERTHIRD, CUMNOCK**

**BY SHIREBROOKE INVESTMENTS LTD**

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

**Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=09/0537/PP>**

## **EXECUTIVE SUMMARY SHEET**

### **1. DEVELOPMENT DESCRIPTION**

1.1 The proposal seeks the change of use of part unused offices, workshops and toilets to form a coffee shop and the change of use of unused factory space to create new retail sales area. The retail sales area will consist of clothing/gift sales, outdoor clothing sales area, shoe sales area and miscellaneous sales area. A cafe is proposed within the central area extending towards the front elevation. Furthermore part of the remaining factory space is noted as being utilised as an ancillary storage area.

1.2 The total floor area of the building is noted as 2846 m<sup>2</sup>. The existing retail floorspace is some 1049 m<sup>2</sup> with the additional retail area proposed of some 1565 m<sup>2</sup>. It should be noted that the existing retail floorspace within the former shoe factory operated initially as a factory shop in conjunction with its industrial use. No formal planning permission has been granted for this operation, albeit that its retail use is known to the Council and has been in operation, to varying degrees, for a period in excess of 8 years. In effect the application also seeks to address this breach of planning control.

1.3 The proposed development will result in the greater part of the former factory premises being used for retail sales, café / restaurant with associated staff and ancillary storage areas. The proposals however also include the reconfiguration of the remaining redundant industrial floorspace to provide 4 smaller self-contained industrial units.

1.4 Externally changes are proposed to improve the visual appearance of the building especially the main front elevation. These are shown as the formation of new window openings with separate office entrance and factory shop entrance and exit openings. The factory shop entrance incorporates a pitched roof canopy over the doors providing some detail to the elevation.

Signage is shown above the window openings on the eaves detail. To the rear, four separate roller shutter openings and associated access doors are proposed to the four industrial units.

1.5 The proposals also include the reconfiguration of the existing car parks to the front and rear of the existing premises providing 71 spaces and 13 spaces respectively.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application for Planning Permission be approved subject to the conditions on the sheet attached to this report.**

## **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report the application is not considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 there are material considerations relevant to the application and it is considered that these provide a degree of support of the application.

3.2 The proposal to regularise the existing use, substantially increase the retail provision and introduce a coffee shop in a former industrial unit, has been assessed against the provisions of both the Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan. The Structure Plan policy restricts new retail floorspace at out of centre locations to bulky goods retailing. As the proposal will be for non-bulky retail use, the proposal is contrary to COMM6 of the Structure Plan. Furthermore within the recently adopted East Ayrshire Local Plan 2010, the site is safeguarded for industrial use. In addition, a sequential approach requires to be taken to out of centre retail proposals and as no supporting information has been submitted to this effect, the proposal is considered contrary to the Local Plan. The Local Plan reflects the approach taken in the Structure Plan with regard to retail development that restricts out of centre retail to bulky goods. It is therefore considered that the proposal is significantly contrary to the Joint Structure Plan as well as the adopted Local Plan.

3.3 However there are a number of material considerations relevant in the determination of the application, some of which should be afforded significant weight. Principally, on economic grounds, this business is an established and successful one and this application also seeks to regularise the existing unauthorised operations and to extend further into the retail sector. This in itself has positive benefits as it will assist in bringing inward investment to the

area and in safeguarding and creating further jobs within the business (increasing from 13 currently employed to approximately 40).

3.4 It is further noted that the proposal also includes the reconfiguration of the remaining redundant industrial floorspace into smaller self-contained units with the intention of attracting smaller businesses into the site, being of more manageable and marketable scale. It is also important to note that there are existing available industrial sites within the settlement of Cumnock, many of which lie empty. Therefore this proposal should be considered in light of the wider local context.

3.5 In summary the benefits of the proposal are as follows:

- The retention of the existing 13 jobs and the creation of a further 27 jobs (40 jobs in total);
- The utilisation of currently redundant industrial floorspace;
- The refurbishment of the existing building and improvement to its external appearance;
- The retention and reconfiguration of the remaining industrial floorspace into smaller, more marketable business units and the employment opportunities that this could further provide; and
- The potential the proposal will have in bringing visitors to the premises and into the local area.

3.6 The disbenefits would be:

- Approval of a development which is significantly contrary to the development plan;
- The loss of safeguarded industrial land / floorspace that could impact on the ability of the area to meet the needs of industrial developers;
- The inherent danger of approving a large scale retail use in an out-of-town-centre location to the detriment of the regeneration of Cumnock Town Centre;
- The establishment of the use of the site for retail purposes that could prove attractive to other larger retail operators (the overall floorspace within the existing factory premises is greater than that of the current ASDA store within Cumnock);
- The potential impact on existing retail businesses in Cumnock Town Centre to the detriment of the vitality of that area;

3.7 It is clear that there is a thriving retail business in existence within these safeguarded industrial premises albeit that this use is unauthorised. Nonetheless, it does provide an element of employment and the applicant now wishes to build and expand on the success and popularity of the business.

3.8 In terms of addressing some of the disbenefits, it is considered that control over the long term use of the site for retail purposes could be

addressed by granting a temporary consent only for the development. This would not only preserve the overall safeguarded use of the site for industrial purposes in the longer term but would allow a further review of the position at a later date in light of particular future needs or demands. However, in order to realise and justify expenditure on the proposed expansion, it is likely that any temporary consent should be no less than 10 years.

3.9 Furthermore, issues of potential establishment of the site for retail use could be addressed by granting consent on a personal basis to the applicant, based on the particular circumstances of the current unauthorised operations and proposed expansion. It is also considered that to ensure the viability of the remaining industrial floorspace within the premises, this part of the development should be undertaken concurrently with proposals for the additional, expanded retail floorspace.

3.10 Taking on board the balance between the principles of planning policy contained within the development plan relating to the perceived impact of the proposal on the viability of the town centre of Cumnock and the wider policy context of Scottish Planning Policy, the planning history and the economic outcome of refusing such a proposal it is therefore concluded that such material considerations in this case carry sufficient weight to justify and support a departure from planning policy.

## **CONTRARY DECISION NOTE**

Should the committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, then the application would not require to be referred to the 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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**AT FACTORY SHOP CRAIGENS ROAD, NETHERTHIRD, CUMNOCK**

**BY SHIREBROOKE INVESTMENTS 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 an application for Planning Permission, to be considered by the Southern Local Planning Committee under the revised scheme of delegation as the proposal constitutes a significant departure from the development plan.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is located towards the southern edge of Cumnock taking the form of a factory site, slightly elevated from Glaisnock Road which runs parallel with the frontage from north to south. The building is a single storey industrial unit with uniform frontage and delivery area to the rear. The front elevation consists of a mix of window openings some of which have been blocked off and others with external box shutters and white painted facing brick. Car parking bounds the front of the factory unit with some landscaping including a hedgerow forming a buffer with the road. The main frontage of the building is visually tired. Vehicular access is taken from Craigens Road.

2.2 To the south the site bounds a more modern industrial unit and to the north on the opposite side of Craigens Road the sites looks onto residential units with an area of mature landscaping located on the corner. To the east the ground rises and bounds with a cleared site used as a haulage yard. To the west and on the opposite side of Glaisnock Road the ground falls to the modern industrial unit of Caledonian Bottlers. The application site is largely level although slightly elevated from Glaisnock Road and covers an area of approximately 0.28ha.

2.3 **Proposed Development:** The proposal seeks the change of use of part unused offices, workshops and toilets to form a coffee shop and the change of use of unused factory space to create new retail sales area. The retail sales area will consist of clothing/gift sales, outdoor clothing sales area, shoe sales area and miscellaneous sales area. A cafe is proposed within the central area extending towards the front elevation. Furthermore part of the remaining factory space is noted as being utilised as an ancillary storage

area.

2.4 The total floor area of the building is noted as 2846 m<sup>2</sup>. The existing retail floorspace is some 1049 m<sup>2</sup> with the additional retail area proposed of some 1565 m<sup>2</sup>. It should be noted that the existing retail floorspace within the former shoe factory operated initially as a factory shop in conjunction with its industrial use. No formal planning permission has been granted for this operation, albeit that its retail use is known to the Council and has been in operation, to varying degrees, for a period in excess of 8 years. In effect the application also seeks to address this breach of planning control.

2.5 The proposed development will result in the greater part of the former factory premises being used for retail sales, café / restaurant with associated staff and ancillary storage areas. The proposals however also include the reconfiguration of the remaining redundant industrial floorspace to provide 4 smaller self-contained industrial units.

2.6 Externally changes are proposed to improve the visual appearance of the building especially the main front elevation. These are shown as the formation of new window openings with separate office entrance and factory shop entrance and exit openings. The factory shop entrance incorporates a pitched roof canopy over the doors providing some detail to the elevation. Signage is shown above the window openings on the eaves detail. To the rear, four separate roller shutter openings and associated access doors are proposed to the four industrial units.

2.7 The proposals also include the reconfiguration of the existing car parks to the front and rear of the existing premises providing 71 spaces and 13 spaces respectively.

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

3.1 Cumnock Community Council has raised no objections to the proposed development.

3.2 East Ayrshire Council's Roads and Transportation Service has no objections to the proposal.

3.3 East Ayrshire Council's Environmental Health Service has no objections subject to the following conditions

- (i) Noisy work on the site during the works should be restricted to 7am to 7pm Monday to Friday, 8am to 1pm on a Saturday and no noisy work on a Sunday.
- (ii) All waste arising from the works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.
- (iii) The plans indicate a W.C compartment to be entered from a kitchen. This would not be acceptable in terms of food safety legislation and the

plans should be amended to correct this. This change could be addressed at the building warrant stage.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Service.***

3.4 East Ayrshire Access Panel has no objection to the proposed development and make the following comments:

- (i) Level access should be provided (if provision not already made).
- (ii) An accessible toilet shall be provided.

***The above comments can be addressed at the building warrant stage of the proposed development.***

#### **4. REPRESENTATIONS**

4.1 No third party representations have been received.

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

5.1 For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (EALP) (2010).

##### Ayrshire Joint Structure Plan

5.2 Policy COMM6 outlines 6 ways (two of which are relevant to the proposed development) in which the 3 Councils shall promote the viability and vitality of town centres by proposals that:

- D) adopt a sequential approach to the approval of retail and commercial leisure development with new investment directed first to town centres and then edge-of-centre locations;

***In accord with the sequential approach, the proposed new retail floorspace should be directed first to town centre and then to edge of centre locations, in preference to out of centre locations.***

***Given that the proposed location is an out-of-centre location the application should be supported by evidence that a sequential approach has been taken i.e. in order to justify an out of centre retail development. It should be demonstrated that there are no suitable sites within Cumnock town centre or on edge of centre sites. Unless this can be demonstrated, the proposed retail development is contrary to this policy criterion. No evidence has***

**been submitted to illustrate compliance with the requirements of this policy.**

- E) restrict new retail floorspace at out of centre locations to the sale of Do-It-Yourself, furniture, carpets, electrical and gardening goods;

**It is noted from the plan information provided that the development is for non-bulky goods and therefore the proposal is contrary to this criterion.**

#### East Ayrshire Local Plan 2010

5.3 The Council will safeguard the following sites for continuing industrial use and as preferred areas to which new industrial and business development will be directed;

- (ii) 270B Cumnock Business Park / Glaisnock Glen

**The proposed location forms part of site 270B and as such should be safeguarded for industrial use.**

5.4 As stated in Policy RTC1, 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 as identified on the Local Plan maps; secondly, in edge of centre locations where no such town centre sites are available; and thirdly, in identified commercial centres as identified on the local plan maps, 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.

**Out of centre retail developments should only be considered acceptable when a sequential approach has been taken and can demonstrate that no sequentially preferable locations are available. As no evidence of such an approach has been submitted, the proposal is contrary to this policy.**

With the exception of those particular types of out of centre retail developments considered acceptable in terms of policy RTC 7 below, the development of new retail floor space in out of centre locations (including identified commercial centres) will be restricted to the sale of bulky DIY, furniture, carpets, electrical and gardening goods.

***The proposed development is for non-bulky goods and therefore the proposal is contrary to this policy, which reflects the strategic policy position of the Joint Structure Plan.***

5.5 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; all major retail and other Schedule 6(i) uses of significant importance to a range of local communities within the investment corridors are directed to the service centres of Cumnock, Auchinleck, Stewarton, Galston and Dalmellington;
- (iii) all retail and other Schedule 6(i) uses of local importance are directed to the particular service centres or local communities to be served by the development.

***Given the size of the proposed retail floorspace, it is considered that Cumnock town centre would be the most appropriate location for this development in terms of the stated policy.***

5.6 Through Policy RTC4, subject to the provisions of all appropriate local plan policies, the Council will be particularly supportive of development proposals for new Schedule 6(i) uses within town centre areas as defined on the local plan maps, particularly where the proposals relate to gap or infill sites with potential for redevelopment. In cases where a town centre contains a number of small scale gap or infill sites with potential for redevelopment, the Council will require any developer proposing to develop a large scale retail development outwith the town centre to demonstrate, as part of the sequential test, that the available gap or infill sites cannot be assembled and developed together in a coordinated manner to accommodate either the whole or part of the particular development concerned. The Council will be particularly supportive of such aggregated developments in preference to the development of single sites in out of centre locations.

***This policy encourages developers proposing retail developments outwith the town centre to consider the potential to disaggregate proposals to enable them to be accommodated within appropriate gap sites within the town centre. No reference to this approach has been included as part of the application submission.***

5.7 Through Policy RTC11, the Council will generally be supportive of proposals to extend existing retail premises where the extension:

- (i) is of a size and scale appropriate to the premises concerned;

- (ii) does not create a total gross ground floor floorspace of more than 200m<sup>2</sup>;and
- (iii) is of a high quality design and finish.

Any extension which would result in a total gross ground floor floorspace in excess of 200 m<sup>2</sup>, which would comprise new mezzanine floorspace within an existing retail unit or which would be of such a size or type as to result in a change to its character, will require to be fully justified by the developer and will be assessed on its own merits against the provisions of policy RTC 8.

***Whilst the proposal will not increase the size of the footprint of the existing building, the retail sales space will be increased to far in excess of 200 m<sup>2</sup>. For this reason, the application requires to be assessed against the provisions of RTC8 (See below)***

5.8 The Council will, through Policy RTC8, not be supportive of applications for the development of new convenience and comparison retail floor space in out of centre locations, (including identified commercial centres) unless the application relates to a type of retail development detailed in Policy RTC 7 above or Policy RTC 9 below or to a bulky goods development relating to the sale of DIY, furniture, carpets, electrical and gardening goods.

***As the proposal is not for bulky goods retailing and does not relate to the types of development detailed in RTC7 or RTC9, the proposal is considered to be contrary to this Local Plan policy.***

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

6.1 The principal material considerations relevant to the determination of these applications are the applicant's statement of support, Scottish Planning Policy 2010, the consultation responses, the planning history of the site, and appropriate Supplementary Planning Guidance.

### Supporting Statement

6.2 The supporting statement provides a good level of detail highlighting the background to the application, development plan considerations, national policy and a review of the designated industrial sites in Cumnock. A selection of the main points of particular relevance is summarised below:

6.3 The applicant has been involved in shoe production for many years and acquired this property approximately 20 years ago and it has formed a key part of their operation in the UK ever since. However it is common knowledge that the British shoe manufacturing industry, along with many others, suffered greatly from cheap overseas competition and the introduction of relatively cheap shoes led to the closure of much of the British shoe industry.

6.4 These events lead to the present site stopping shoe production and moving into simply finishing pre-made shoes. However even this very low key

operation ceased in the face of continuing and growing cheap shoe imports from abroad. Therefore this site has not been involved in the production of shoes for many years and this fact has been common knowledge in the town and to local Council officials. The applicant has retained this outlet over this time and developed the shoe sales over the years to the extent that it has been the only part of the factory trading with no industrial operations taking place on site for many years.

6.5 The sales operations have clearly grown out of the shoe business but have formed the sole operations on site for many years providing local jobs and employment over this period. The sales unit is now one of the more profitable assets for the company and the applicant wishes to retain and develop on this success. The statement highlights and reviews the current designation and uses of the three Industrial Sites in Cumnock explaining that many of the businesses operating within the industrial sites are retailing related activities industrial or manufacturing operations.

6.6 The statement considers that it is important in this application to have regard to the extent and length of time that retail sales have taken place from these premises also the manner in which these have developed out of the original business where the sales were ancillary to the main business which has now regrettably ceased. The applicant has developed the business in a different direction yet retains a presence within the town and continues to provide jobs.

6.7 The changing approach of the Scottish Government through their Scottish Planning Policy paper of February 2010 coupled with the harsh reality of the global recession require a much more adaptive and flexible approach to employment no longer solely industry. The statement emphasises that in these present times, the expansion of a viable retail outlet within a small town should be grasped with both hands. The proposal has been operating for many years with no detriment to the town, possibly the key concern of the planners. Indeed this unit attracts people from outwith the local area specifically for the merchandise sold. The proposal will develop this and with the provision of ancillary features such as a coffee shop will make it a more desirable location but with no threat to the vitality and viability of Cumnock if anything this will attract people to the town.

6.8 Therefore this could be seen as a non industrial use of the building but given the history of the site industry has long left. This could raise the question as to why the planners continued to designate it in the face of the economic situation and evidence on site. However the site has maintained a thriving retail outlet which will arguably attract more customers to Cumnock. Therefore given the site history, Scottish Government policy position, the economic situation in the country and the fact that this development will positively enhance the local economy the applicant requests that the development is supported in full and planning consent is granted for the part change of use of those premises.

***The additional supporting statement, outlining reasons as to why the application should be supported, requires to be given a degree of weighting. However, whilst the statement provides some justification for the proposal, in strictly planning policy terms, the statement does not alter the position. It is still considered that the proposal remains contrary to policy for the following key reasons:***

- The proposed site of the application for class 1 and class 3 use, is safeguarded in the Adopted Local Plan for industrial use. Development of the site for non-industrial use is therefore contrary to CUMNOCK 2 of the recently adopted local plan.***
- Policy RTC1 and the other relevant retail policies of the Adopted Local Plan require a sequential approach to be carried out, directing retail and other town centre uses firstly to town centres and secondly to edge of centre locations in preference to out of centre sites. The supporting statement does not provide any evidence that sequentially preferable sites have been considered.***
- Both the Joint Structure Plan (COMM 6) and the adopted Local Plan (RTC8) restrict out of centre retail to bulky goods. The current proposal is not for bulky goods retail.***
- The Adopted Local Plan (RTC9) allows for out-of-centre retail in the form of factory shops. However, as production has ceased at the current unit, the proposal cannot be accurately described as a factory shop.***

***In conclusion, it is considered that in strictly planning policy terms, the proposal remains significantly contrary to the Joint Structure Plan and the Adopted Local Plan.***

#### Scottish Planning Policy 2010

6.9 Paragraph 52 (Town Centres and Retailing) states that town centres are a key element of the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities, as well as homes and businesses. Retail and leisure uses are fundamental to the concentration of other activities located in town centres and planning authorities should support a diverse range of community and commercial activities in town centres. The range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre.

## Consultation Responses

6.10 The submissions detailed in Section 3 of this report do not raise any issues that merit refusal of the application on infrastructure grounds.

## Planning History

6.11 The operation of the factory shop has never been the subject of a formal planning application for the retail use of the premises and clearly with the subsequent loss of the manufacturing base at the premises, it can not operate as a factory shop selling goods produced on the site. A planning application 96/0476/FL for the change of use of part of the factory to form 6 retail units at the former Bata factory was refused by the Council on 27 January 1997.

## Cumnock Town Centre Master Plan (Supplementary Planning Guidance)

6.12 The Council has identified the regeneration of Cumnock Town Centre as a priority which must be addressed in an integrated way focussing on the following key objectives:

- Providing more jobs in the town centre;
- Enhancing and extending the available retail offer;
- Enhancing the public realm and the town centre environment; and
- Implementing improved traffic management and a parking strategy.

***The proposal is not located within the designated Town Centre Master Plan area nor does it contribute to further jobs specifically in the Cumnock Town Centre. In this regard the key concern is the development of out-of-centre retailing, which has not been justified in the applicant's submissions, and the potential impact this will have on the town centre and the regeneration project. In addition, the proposal would result in the loss of industrial land which is also contrary to policy. However the proposed development does safeguard the existing jobs and has the potential to create an additional 27 jobs within the settlement of Cumnock.***

## **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 not considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997

the application should be refused unless material considerations indicate otherwise. As indicated in Section 6 there are material considerations relevant to the application and it is considered that these provide a degree of support of the application.

8.2 The proposal to regularise the existing use, substantially increase the retail provision and introduce a coffee shop in a former industrial unit, has been assessed against the provisions of both the Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan. The Structure Plan policy restricts new retail floorspace at out of centre locations to bulky goods retailing. As the proposal will be for non-bulky retail use, the proposal is contrary to COMM6 of the Structure Plan. Furthermore within the recently adopted East Ayrshire Local Plan 2010, the site is safeguarded for industrial use. In addition, a sequential approach requires to be taken to out of centre retail proposals and as no supporting information has been submitted to this effect, the proposal is considered contrary to the Local Plan. The Local Plan reflects the approach taken in the Structure Plan with regard to retail development that restricts out of centre retail to bulky goods. It is therefore considered that the proposal is significantly contrary to the Joint Structure Plan as well as the adopted Local Plan.

8.3 However there are a number of material considerations relevant in the determination of the application, some of which should be afforded significant weight. Principally, on economic grounds, this business is an established and successful one and this application also seeks to regularise the existing unauthorised operations and to extend further into the retail sector. This in itself has positive benefits as it will assist in bringing inward investment to the area and in safeguarding and creating further jobs within the business (increasing from 13 currently employed to approximately 40).

8.4 It is further noted that the proposal also includes the reconfiguration of the remaining redundant industrial floorspace into smaller self-contained units with the intention of attracting smaller businesses into the site, being of more manageable and marketable scale. It is also important to note that there are existing available industrial sites within the settlement of Cumnock, many of which lie empty. Therefore this proposal should be considered in light of the wider local context.

8.5 In summary the benefits of the proposal are as follows:

- The retention of the existing 13 jobs and the creation of a further 27 jobs (40 jobs in total);
- The utilisation of currently redundant industrial floorspace;
- The refurbishment of the existing building and improvement to its external appearance;
- The retention and reconfiguration of the remaining industrial floorspace into smaller, more marketable business units and the employment opportunities that this could further provide; and

- The potential the proposal will have in bringing visitors to the premises and into the local area.

8.6 The disbenefits would be:

- Approval of a development which is significantly contrary to the development plan;
- The loss of safeguarded industrial land / floorspace that could impact on the ability of the area to meet the needs of industrial developers;
- The inherent danger of approving a large scale retail use in an out-of-town-centre location to the detriment of the regeneration of Cumnock Town Centre;
- The establishment of the use of the site for retail purposes that could prove attractive to other larger retail operators (the overall floorspace within the existing factory premises is greater than that of the current ASDA store within Cumnock);
- The potential impact on existing retail businesses in Cumnock Town Centre to the detriment of the vitality of that area;

8.7 It is clear that there is a thriving retail business in existence within these safeguarded industrial premises albeit that this use is unauthorised. Nonetheless, it does provide an element of employment and the applicant now wishes to build and expand on the success and popularity of the business.

8.8 In terms of addressing some of the disbenefits, it is considered that control over the long term use of the site for retail purposes could be addressed by granting a temporary consent only for the development. This would not only preserve the overall safeguarded use of the site for industrial purposes in the longer term but would allow a further review of the position at a later date in light of particular future needs or demands. However, in order to realise and justify expenditure on the proposed expansion, it is likely that any temporary consent should be no less than 10 years.

8.9 Furthermore, issues of potential establishment of the site for retail use could be addressed by granting consent on a personal basis to the applicant, based on the particular circumstances of the current unauthorised operations and proposed expansion. It is also considered that to ensure the viability of the remaining industrial floorspace within the premises, this part of the development should be undertaken concurrently with proposals for the additional, expanded retail floorspace.

8.10 Taking on board the balance between the principles of planning policy contained within the development plan relating to the perceived impact of the proposal on the viability of the town centre of Cumnock and the wider policy context of Scottish Planning Policy, the planning history and the economic outcome of refusing such a proposal it is therefore concluded that such material considerations in this case carry sufficient weight to justify and

support a departure from planning policy.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application for Planning Permission be approved subject to the conditions on the sheet attached to this report.**

### **CONTRARY DECISION NOTE**

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

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

17 November 2010  
RG/HM

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. East Ayrshire Local Plan 2010
5. Ayrshire Joint Structure Plan 2007
6. Supporting Statement by Applicant
7. Scottish Planning Policy 2010
8. Cumnock Town Centre Masterplan

Anyone wishing to inspect the above papers please contact Robin Ghosh, Senior Planning Officer, on 01563 553505.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

ApplicationNo:09/0537/PP

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Site of Proposal: Factory Shop, Craigens Road, Cumnock

Nature of Proposal: Change of use of part unused offices, workshops and toilets to coffee shop and change of use of unused factory space to new sales area

Name & Address of Applicant: Shirebrooke Investments Ltd  
C/o Quickplans  
10 The Loan,  
Mauchline

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DPO's Reference: Robin Ghosh

The application for Planning Permission should be granted subject to the following conditions:

1. The permission hereby granted shall not enure for the benefit of the land but for the benefit of the applicant only (Shirebrooke Investments Limited). The comment hereby granted, notwithstanding the provisions of The Use Classes (Scotland) Order 1997, shall be restricted to those Class 1 uses outlined within the Planning Application and an associated Class 3 café use for sole operation by the applicant.

REASON: Permission is hereby granted for the above uses for the applicant only in relation to the operation of the existing business and in light of the specific circumstances of this business.

2. Permission is granted for a limited period of 10 years from the date hereof, and the retail uses hereby authorised shall be discontinued at the expiration of this period unless a further permission is granted.

REASON: To enable the Planning Authority to review the situation in the interests of safeguarding the longer term use of the site for industrial purposes.

3. Notwithstanding the submitted plans a landscaping plan for the full area of open space between the factory unit and Glaisnock Road and Craigens Road shall be submitted to and approved in writing by the Planning Authority and thereafter implemented on site during the next planting season following commencement of this development.

REASON: In the interests of the visual amenity.

4. The additional retail floorspace and uses hereby approved shall not be brought into use until the proposed reconfigured industrial units have been refurbished and completed and are available for occupation, all in accordance with the approved plans.

REASON: To ensure that the industrial element of this development is delivered concurrently with the proposed retail use.

5. Notwithstanding the submitted plans the signage is not hereby approved. Details of the proposed signage including materials and any associated lighting shall be submitted to and approved in writing by the Planning Authority prior to any alterations commencing on site.

REASON: In the interests of controlling the size, scale and material finish of the signage.

6. Notwithstanding the submitted plans an accessible toilet shall be installed prior to the opening of the cafe facility.

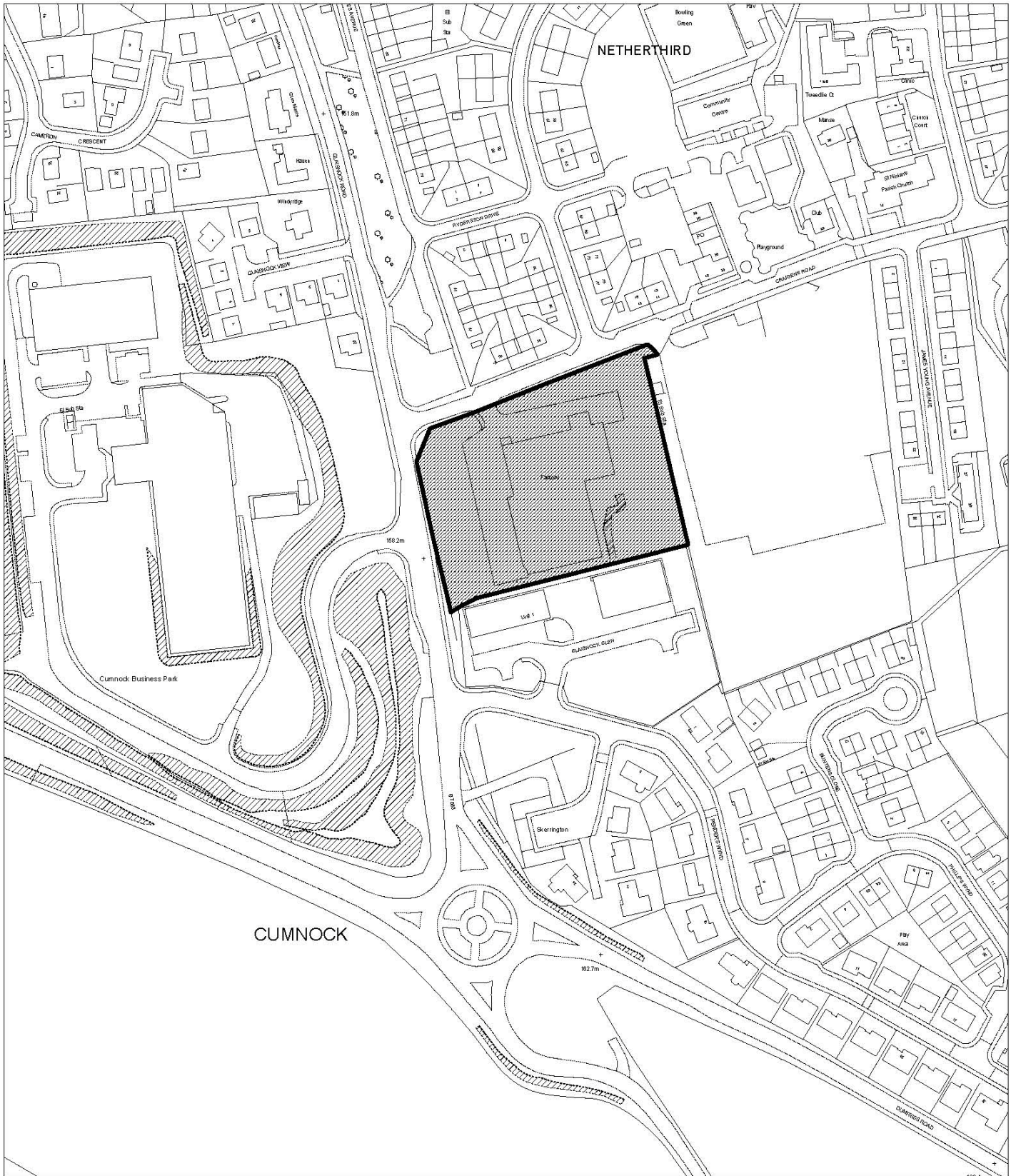
REASON: In the interests of providing a accessible facilities.


7. Notwithstanding the submitted plans level access shall be provided at the main entrance prior to the retail and cafe facility trading.

REASON: In the interests of providing accessible facilities.

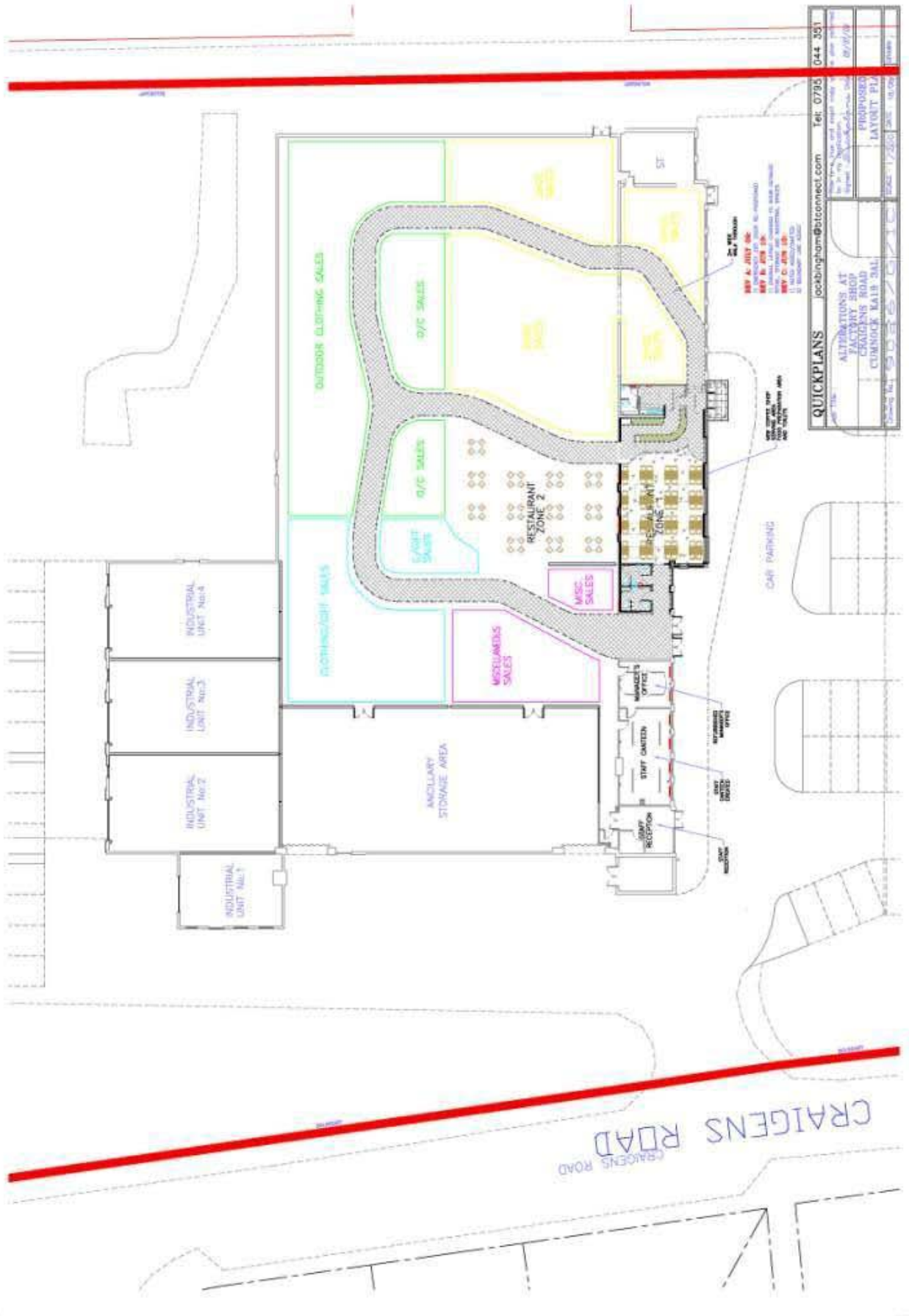
#### REASON FOR DECISION

The material considerations relevant to this proposal, taken with the specific circumstance associated with the business, together merit approval of the application and justify a departure from the development plan on this occasion.



<p>Title/Location    <b>Factory Shop, Craighens Road</b></p> <p>                          <b>Netherthird</b></p> <p>                          <b>Application No. 09/0537/PP</b></p>	<p><b>East Ayrshire Council</b></p> <p>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></p> <p><b>Com Date: 26/11/2010</b></p>
<p>Key</p> <p> <b>Application Site</b></p>	<p style="text-align: right;"></p>

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QUICKPLANS		jobbingham@btconnect.com	Tel: 07935 044 331
ALTERATIONS AT FACTORY SHOP BURNINGHAM CURRICKS BATHS LAYOUT PL.			
Client Ref:	17-000	Scale:	1:500
Project Ref:	17-000	Drawn:	10/06/06
Project Name:	ALTERATIONS AT FACTORY SHOP BURNINGHAM CURRICKS BATHS LAYOUT PL.	Checked:	10/06/06
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