

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 30 JUNE 2005

**05/0500/FL: PROPOSED REINSTATEMENT OF CLASS 2 USE TO
VACANT PREMISES AT 43 CAMPBELL PLACE, RICCARTON,
KILMARNOCK
BY THIRDPART PROPERTIES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the use of the premises in terms of Class 2, Financial, Professional and Other Uses principally for visiting members of the public, in terms of the Town and Country Planning Use Classes (Scotland) Order 1997. The premises have recently been upgraded internally to provide office accommodation, although the proposed use has not been implemented on site.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 8.1 As indicated in Section 5 of the report the application is considered to accord with the policies of the development plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The proposal accords with Policy RTC 11 of the Adopted EALP as it is for the re-use of a vacant unit which, until recent internal upgrading was carried out, was derelict and had a detrimental impact on the amenity of the area. The proposals are in keeping with the adjacent uses and will bring a unit which has been vacant for a number of years back into economic use. It is considered that the concerns of the objectors, whilst noted, are not of sufficient weight to warrant the refusal of the application. Their concerns either are not material to the determination of this application or can be addressed by attaching a condition to any grant of planning consent restricting the authorised use to a Class 2 financial, professional and office use only.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards it will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

Alan Neish

Head of Planning, Development and Building Standards

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, Development and Building Standards

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 Local Planning Committee under the scheme of delegation as it is subject to objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site extends to approximately 0.0058 hectares and comprises a ground floor vacant commercial unit within a 1970's purpose built two storey building comprising office accommodation and a hot food takeaway to the ground floor and flatted dwellings to the first floor of the building. The unit has been vacant for approximately 7 years, having previously been utilised as a bookmakers. The unit was derelict and in a poor state of repair until recently, having been upgraded by the applicant for the purposes of providing office accommodation. The application site is bound to the north by a public house and flatted dwellings, to the south by the Riccarton Community Centre and residential dwellings beyond, to the west by the Bickets Seat/Fiat Car showroom and repairs centre and to the east by the communal amenity space and access/parking area for the flatted dwellings above the application site.

2.2 **Proposed Development:** Full planning permission is sought for the use of the premises in terms of Class 2, Financial, Professional and Other Uses principally for visiting members of the public, in terms of the Town and Country Planning Use Classes (Scotland) Order 1997. The premises have recently been upgraded internally to provide office accommodation, although the proposed use has not been implemented on site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Environmental Health and Waste Management and East Ayrshire Council's Roads and Transportation Division have no objections to the proposed development.

Noted.

3.2 There is no Community Council in existence for this area.

Noted.

4. REPRESENTATIONS

4.1 There are 2 objectors to the proposed development and their grounds of objection are as follows.

4.2 They have no objection to the premises being used as an office with hours limited from 8.00 - 9.00 a.m. – 5.00 - 6.00 p.m. but object to the premises being used for the preparation of food stuffs, hot food take away or retail development.

The proposed use is a Class 2 Use which in terms of the Town and Country Planning (Use Classes) (Scotland) Order 1997, is for financial or professional and other services principally for visiting members of the public. This could include, for example, a bookmakers, accountants, solicitors or a tanning centre. The proposals do not make provision for a hot food takeaway and further express consent for such a development would be required in terms of the Use Classes Order. The premises could, however, be changed to a shop without planning consent in terms of the Use Classes Order. An appropriately worded condition could be attached to any grant of planning consent restricting the permission to a Class 2 Use only, with a change to a Class 1 retail use requiring the benefit of planning consent.

4.3 The premises have been marketed by Graham and Sibbald Surveyors since mid- April 2005 as having Class 2 consent with a sales board affixed to the wall of the building even before the applicant had applied for planning consent.

The applicant was unaware that planning consent was required in this instance given the previous use of the premises were for a Class 2 Use. Following a complaint this Division advised the applicants' agents that consent was required as the premises has been vacant for a substantial length of time and the previous use is considered "abandoned". It is understood that the sale board advertising the premises For Lease with planning permission for a Class 2 use has now been removed pending the determination of this application.

4.4 The applicant has carried out internal alterations working late at night and disturbing their family whilst they believe the applicant does not have a building warrant for the internal works to the property.

Planning permission is not required to carry out internal alterations to the property and as a result this Division cannot prevent the applicant carrying out internal works to his premises at any time of day or night. A disturbance of this nature would potentially be a matter for investigation by East Ayrshire Council Environmental Health and Waste Management. The applicant has advised that the internal alterations are limited to decoration, carpeting and installation of a new ceiling, none of which would require a Building Warrant.

4.5 The applicant has informed the objectors that he has parking and access rights to the rear of the application site whilst only they have any parking rights to the rear and a communal drying green for both the flats, as confirmed by their title deeds.

The parking/access rights to the rear of the premises, and the communal drying green do not form part of the application site. Any disagreement over these is a legal matter between the objectors and the applicants and is not, therefore, a material consideration in the determination of this planning application. The Roads Division have no objections to the proposed use as parking for the development can be provided on the street.

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. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (EALP).

The Adopted Ayrshire Joint Structure Plan

5.2 There are no specific policies within the Ayrshire Joint Structure Plan relevant to the determination of this application.

The Adopted East Ayrshire Local Plan (EALP)

5.3 Policy RTC11 is specifically relevant and encourages and supports the re-use of vacant properties formerly in Schedule 5 use of the Adopted East Ayrshire Local Plan for appropriate similar Schedule 5 uses.

The proposed use complies with the above policy as the property was previously used as a bookmakers which falls within the same use class.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultations and representations received which are detailed in Sections 3 and 4 of the report, and the planning history of the site.

Consultations and Representations

6.2 The consultations and representations received are addressed in Sections 3 and 4 of the report, neither of which indicate that the application should be refused.

Planning History

6.3 Planning permission was granted for the erection of two shops and houses at 41-43 Campbell Place by Kilmarnock Town Council in April 1975. Amended plans, sub-dividing the 2 shop units into 4 shop units, were approved as a Non-Material Variation by Kilmarnock and Loudoun District Council on 20 December 1978.

6.4 Planning consent was granted for the Change of Use of an unused shop to a licensed betting office on 15 December 1980. However this use was abandoned approximately 7 years ago.

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 considered to accord with the policies of the development plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The proposal accords with Policy RTC 11 of the Adopted EALP as it is for the re-use of a vacant unit which, until recent internal upgrading was carried out, was derelict and had a detrimental impact on the amenity of the area. The proposals are in keeping with the adjacent uses and will bring a unit which has been vacant for a number of years back into economic use. It is considered that the concerns of the objectors, whilst noted, are not of sufficient weight to warrant the refusal of the application. Their concerns either are not material to the determination of this application or can be addressed by attaching a condition to any grant of planning consent restricting the authorised use to a Class 2 financial, professional and office use only.

9. RECOMMENDATION

9.1 It is recommended that the application 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, Development and Building Standards it will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

Alan Neish
Head of Planning, Development and Building Standards

16 June 2005
(BD/SA)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Representations.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Barry Douglas on (01563) 576770.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0500/FL

Site of Proposal:	43 Campbell Place KILMARNOCK KA1 4DY
Nature of Proposal:	Proposed Reinstatement of Class 2 Planning Consent to Vacant Premises
Name & Address of Applicant:	Thirdpart Properties Ltd 149 Dundonald Road KILMARNOCK KA1 1UG
Name & Address of Agent:	Graham and Sibbald Chartered Surveyors 5 St Marnock Place KILMARNOCK KA1 1DU

DPOs Reference: BD/MMM

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

1. This permission relates to the use of the property as a Class 2 use only and notwithstanding the terms of the Town and Country Planning Use Classes (Scotland) Order 1997, the further express permission of the Planning Authority shall be required to change the permitted use to any other uses in terms of that Order.

REASON To enable the Planning Authority to control the future use of the property in the interests of residential amenity.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**