

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 30 JUNE 2006

**06/0340/FL: CHANGE OF USE FROM RETAIL TO PUBLIC HOUSE AND RESTAURANT INCLUDING ALTERATIONS TO THE ELEVATIONS AND EXTERNAL SEATING AREA
AT 50/54 BANK STREET, KILMARNOCK
FOR BARRACUDA GROUP**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought to change the use of a former furniture shop to a public house and restaurant, external alterations include the formation of new glazed doors and a timber window to the rear and the formation of an outside seating area to the rear with 4 covered free-standing "umbrella" canopies. The shop front is to be painted blue.

1.2 The applicant has submitted a supporting statement detailing their public house/restaurant concept for the property. They have indicated that they are perceived as a premium brand and do not discount alcohol, albeit promotions are offered on certain items through the course of normal retail processes. The premises will employ up to 30 full and part-time jobs. They actively avoid loud music and they do not anticipate anti-social behaviour due to the more mature customer age.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report, the application is 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 approved unless material considerations indicate otherwise.

3.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application. The change of use is proposed within an established mixed use area within the designated town centre. None of the statutory consultees have raised any adverse comments. The representation received has been considered and, whilst noted, the points raised do not warrant the refusal of the proposals. All alterations are appropriate to the surrounding area and will not adversely affect the character or historic integrity of the Outstanding Conservation Area. The use of this property as a public house and restaurant is acceptable.

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, then the application would not require to be referred to the Development Services Committee as this would not be a significant breach of 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 requires to be considered by the Local Planning Committee under the scheme of delegation because it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to the end terraced two storey Wilson's Furniture Shop at 50-54 Bank Street, located at the heart of the John Finnie Street and Bank Street Outstanding Conservation Area. The site lies within Kilmarnock's designated town centre with Wilson's Furniture recently in occupation. The site comprises the building and service area to rear which is accessed from Nelson Street. It is bound to the north by the B-Listed former Bank of Scotland Building which has consent for a Change of Use to Public House and Restaurant; to the south by commercial buildings, to the east by the Kilmarnock Water and to the west by commercial units within Bank Street and Bank Place.

2.2 **Proposed Development:** Full planning permission is sought to change the use of a former furniture shop to a public house and restaurant, external alterations include the formation of new glazed doors and a timber window to the rear and the formation of an outside seating area to the rear with 4 covered freestanding "umbrella" canopies. The shop front is to be painted blue.

2.3 The applicant has submitted a supporting statement detailing their public house/restaurant concept for the property. They have indicated that they are perceived as a premium brand and do not discount alcohol, albeit promotions are offered on certain items through the course of normal retail processes. The premises will employ up to 30 full and part-time jobs. They actively avoid loud music and they do not anticipate anti-social behaviour due to the more mature customer age.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division and East Ayrshire Council Environmental Health and Waste Management Division have no adverse comments to make regarding the proposed development although the Roads and Transportation Division have advised that all deliveries to the public house/ restaurant will require to be made to the rear access of the premises at all times.

Noted. The requirements of the Roads Division can be addressed by attaching a suitable worded condition to any grant of planning consent.

3.2 Bonnyton Community Council have verbally advised that they have no adverse comments to make regarding the proposed development.

Noted.

3.3 Strathclyde Police have advised that:

- All glazed window/door units facing onto Bank Street should be to Loss Prevention Society standard.
- If a letterbox is to be installed it should be fire proof, have a British Standard lock to Secure By Design (SBD) specification and affixed to the elevation of the original building.
- A traffic bollard should be installed flush fitting with the front elevation of the building at both street facing access doors. This will reduce the chance of the premises being subject to a 'ram raid' style attack.
- The rear of the premises should be fully fenced off from casual public access by a 2000mm high, heavy gauge flat close "weldmesh" fence to Secure by Design specification, with gates to a similar standard.
- The courtyard area to the rear should be lit in a uniform fashion using Metal Halide lighting.
- Colour CCTV that can record to a hard disk format should be installed. A dome camera should be installed on the outer fascia to the front of the building giving a view of activity near to the entry/access doors. A dome camera should also be installed in the rear courtyard area giving a view of users. A camera should also be installed within both front entrance doors. These cameras should be installed in such a position that they give a clear, close up, head and shoulders image of those entering thus providing police quality images to aid identification of persons who may be sought.
- All internal doors should be to SBD specification and lockable.

The applicant has indicated they have been in discussions with the Police and their requirements will be incorporated into their proposals. If consent is granted, conditions could be attached requiring the installation of a CCTV system, its area of coverage monitoring regime; details of the illumination of the rear courtyard; ram-raid bollards; fencing and letterbox details. The internal issues raised by the Police could be addressed through the Building Warrant process.

3.5 East Ayrshire Access Panel (North District) have not objected to the proposed development although have raised concerns relative to the amount of raised floor areas and have requested additional accessible toilets be considered.

The applicant has advised that they have embraced the objectives of the Disability Discrimination Act and consider all their premises to be compliant. They indicate these premises will be no different and incorporate disabled toilets, ramps etc as required to comply with the necessary legislation. These matters will be addressed through the building warrant process.

4. REPRESENTATIONS

One letter of representation has been received on behalf of 10 parties objecting to the proposal. The points raised are as follows:-

4.1 The site is not suitable for the proposed development due to the expected increase in traffic by customers and delivery vehicles.

The site lies within the designated town centre as defined in the Adopted East Ayrshire Local Plan. It is in a mixed use area which is predominantly commercial although with some residential properties. The proposed use complies with the policies of the Adopted EALP. The Roads Division are content with the proposals and have no adverse comments on the proposals

4.2 There will be an increase in noise, smell and fumes from traffic to and from the proposed development and increased volumes lead to questions of safety.

The Roads and Transportation Division have no objections to the development with access and servicing being acceptable provided all servicing is carried out from the rear access lane onto Nelson Street. No concerns have been raised by the Roads Division relative to road safety from traffic volumes and the Environmental Health

Division have no adverse comments on the proposed development. The proposal is located in the town centre where there is a mix of commercial uses and a certain degree of noise and smell already exists.

4.3 The Adopted East Ayrshire Local Plan commits the Council to securing a quality enhancement for living and working and the objectors are concerned that the proposed development will adversely affect those living and working in the area.

The proposed use is assessed against the Adopted EALP in Section 5 of the report. It is not considered that the proposed development will have a detrimental effect on the Outstanding Conservation Area or the town centre area. Residents living in the town centre experience a lower level of amenity due to the mixture of commercial uses in close proximity. The proposed use is the type of use considered appropriate in a town centre location.

4.4 There are works progressing directly next door to the application site for a similar use in terms of size, scale and proposed use. A further development of this nature would create a total imbalance between licensed, residential and retail properties in one of the few quality streets in Kilmarnock. If this development is approved there would be three huge public houses within a few hundred metres of each other, a balance must be struck between residential and mixed commercial development and this proposal would have a negative effect

The former Bank of Scotland building adjacent the application site was granted planning and listed building consent for a public house and restaurant and conservatory extension in February 2004. The site lies within the designated town centre as defined in the Adopted East Ayrshire Local Plan, in a mixed use area. It is considered that a further public house would not have a detrimental impact on the amenity of the town centre as this type of use is very suited to a town centre location. It would not have a significant impact on the level of amenity appropriate to town centre residential uses.

4.5 It is well documented that pubs concentrated in town centre sites have caused major problems with regards public safety and cause social problems. A concentration of such uses would cause a serious safety issue, particularly in late evenings during the weekend.

Strathclyde Police have no objections or adverse comments to make on the proposed development and a town centre is the preferred location for this type of use.

4.6 The objectors have requested that members conduct a site visit prior to the determination of the application

Noted.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Approved Ayrshire Joint Structure Plan

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

East Ayrshire Local Plan

5.3 Policies RTC 2, RTC 11, RTC 15, ENV 2, ENV 4 and ENV 7 are all relevant in the consideration of this application.

5.4 Policy RTC 2 states that certain types of development as detailed in Schedule 5 of the Local Plan will be appropriate. These uses are considered acceptable within town centres in principle.

Public houses and restaurants are acceptable uses in the town centre and therefore the proposal complies with Policy RTC 2.

5.5 Policy RTC 11 encourages and supports the re-use of vacant properties formerly used by a Schedule 5 use and also supports the re-use of these properties for appropriate similar Schedule 5 uses.

The application site comprises a former furniture shop which it is understood, at the time of writing this report, will become vacant on 16 June 2006. The proposed use is acceptable under the terms of this policy.

5.6 RTC 15 states that the development of public houses will be acceptable uses within town centres provided the proposal:-

- a) meets with the Council's design and layout policies;
- b) meets the requirements of the Roads Authority;

- c) do not have a detrimental effect on the amenity of adjacent properties by virtue of noise, litter, odour or other disturbance;
- d) is compatible with surrounding land uses.

The proposal has been considered in accordance with the Council's Design Guidance in paragraph 5.7 below. The proposed development meets the requirements of the Roads Division. The site is located in an area of mixed retail and commercial uses and it is not considered that a pub/restaurant would have a detrimental effect on neighbouring properties. There are some residential properties nearby although these residential properties are located in a mixed commercial area within Kilmarnock town centre where a lower level of amenity is often experienced. The proposed use is acceptable in terms of Policy RTC 15.

5.7 Policies ENV 2, ENV 4 and 7 seek to ensure that all development within or affecting the setting of a Conservation Area or the appearance/setting of a Listed Building is sympathetic to the area or building, in terms of layout, size, scale, design, siting, materials and colour of finish. The policies state that proposals should contribute positively to the character or appearance of the area and have due regard to architectural and historic qualities of the area or building. Policy ENV 7 states that all developers are expected to comply fully with the Council's Design Guidance in order to ensure high standards of design for new development. The design of alterations should reflect and enhance the overall character and appearance of the Conservation Area in terms of size, scale, finish and material used.

The only change to the frontage is to paint the shop front blue. The external alterations proposed to the rear are the creation of two new doors and a window. These alterations are considered to be acceptable in terms of Policies ENV 2, 4 and 7.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant in the determination of the application are the consultation responses and letter of objection detailed in Sections 3 and 4 of the report and the Town Centre Strategy.

Consultation Responses and Representations Received

6.2 The consultation responses have been highlighted in Section 3 of this report. No significant negative issues have been raised which would warrant refusal of the application.

6.3 The letter of representation on behalf of the ten objectors has been addressed in Section 4 of this report and it is considered that whilst the objector's concerns are noted, none of the issues raised warrant the refusal of this application. The proposed use is acceptable in a town centre location and it is not considered that it will have a detrimental impact on other commercial and residential uses. The proposed alterations are acceptable to the building and area.

Planning History

6.4 Planning Application No: 97/0011/FL - Sub-division of retail property to form licensed public house and two retail units and alterations to Bank Street elevation at 50, 52 and 54 Bank Street, Kilmarnock, approved under delegated powers on 21 February 1997. This consent was never implemented on site.

6.5 99/0865/CA: Retention of Façade onto Bank Street and Retain Gables granted 20 April 2000.

6.6 00/0347/FL: Amendment to Planning Application Approval.

6.7 99/0778/FL to extend ground floor retail area to 2500 sq ft with alteration to ground floor entrance to offices granted 22 August 2000.

6.8 02/0008/FL: Extension to Rear Single New Retail Unit approved 21 February 2002.

Town Centre Strategy

6.9 The Town Centre Strategy was approved in December 2005 and sets out a vision and a programme of actions to strengthen and transform the town centre and improve all of the various functions that the town centre provides. The Strategy promotes a vibrant town centre as a place to live, work, shop and as a place to be enjoyed. It encourages the diversification of town centre uses in order to improve its attractiveness and to make it an inviting place to visit at all times of the day.

The proposed development is compatible with the objectives of the Town Centre Strategy by diversifying town centre uses in the historic core.

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 is indicated at Section 5 of the report, the application is 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 approved unless material considerations indicate otherwise.

8.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application. The change of use is proposed within an established mixed use area within the designated town centre. None of the statutory consultees have raised any adverse comments. The representation received has been considered and, whilst noted, the points raised do not warrant the refusal of the proposals. All alterations are appropriate to the surrounding area and will not adversely affect the character or historic integrity of the Outstanding Conservation Area. The use of this property as a public house and restaurant is acceptable.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated 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, then the application would not require to be referred to the Development Services Committee as this would not be a significant breach of policy.

Alan Neish
Head of Planning, Development and Building Standards

21 June 2006
(BD/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Certificates/Notices.
3. Statutory Consultations.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Planning Applications as detailed.

Anyone wishing to inspect the above papers please contact Barry Douglas, Planning Officer, on 01563 576770.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0340/FL

Site of Proposal: 50/54 Bank Street
KILMARNOCK

Nature of Proposal: Proposed Change of Use of retail to
Public House and Restaurant including
alterations to the elevations and external
seating area

Name & Address of Applicant: Barracuda Group
Per Agent

Name & Address of Agent: D2 Planning Ltd
The Annex
2 Oakhurst Road
Stoke bishop
BRISTOL
BS9 3TQ

DPOs Reference: BD/MMM

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

1. Prior to any work commencing on site, the applicant shall submit the following details and samples and receive the written approval of the Planning Authority. No work shall commence on site until the Planning Authority has approved the submissions in writing and all work shall be completed on site as approved prior to the use being brought into operation:

- a) Details and samples of external colours of the building and all external windows and doors;
- b) Details and samples of all external surfaces and finishes of the external seating area and access including footways;
- c) Details, specification and colour of finish of the ventilation system for the kitchen.

REASON In the interests of the visual and general amenity of the surrounding area and in order to protect the character of the Outstanding Conservation Area.

2. Prior to any work commencing on site, details of a CCTV system shall be submitted to and approved in writing by the Planning Authority which shall ensure coverage of the front entrance stair and car park/service area and shall include:

- position of the cameras on the building/within the site;
- details of the design and appearance of the cameras, brackets and poles;
- details of area of coverage and line of sight of the cameras;
- details of the programme for monitoring the CCTV system once operational.

The CCTV system shall be designed to be compatible with the amenity of the Conservation Area and shall be implemented and operated thereafter prior to the use being brought into operation as approved.

REASON In the interests of public and staff safety.

3. Prior to any work commencing on site details of an external lighting scheme and fencing to the proposed outdoor seating area, ram-raid proof bollards to the Bank Street elevation of the building, and the proposed post-box shall be submitted to and approved in writing by the Planning Authority and shall thereafter be implemented as approved.

REASON In the interests of public and staff safety.

4. Notwithstanding the submitted plans all service deliveries shall take place via the access lane to the rear of the proposed public house/ restaurant at Nelson Street at all times.

REASON In the interests of road safety

NOTES:

1. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements)(Scotland) Regulations 1984, no permission is granted for the display of any advertisements and no fascia signs, adverts or projecting signs shall be erected on the premises without the prior written consent of the Planning Authority.

**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.**