

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 31 MARCH 2006

**05/0984/FL: VARIATION OF CONDITION NO.1 OF PLANNING PERMISSION
96/0406/FL TO ALLOW ALTERATIONS TO THE ACCESS AND ASSOCIATED
HIGHWAY AND CONDITION NO. 2 OF PLANNING PERMISSION 96/0406/FL
TO ALLOW AN ADDITIONAL 929 SQUARE METRES OF COMPARISON
FLOORSPACE
AT: 10 QUEENS DRIVE, KILMARNOCK
BY: ASDA STORES LTD.**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the creation of a 929 square metres gross floor area mezzanine floor within the existing superstore for the sale of comparison goods. Consent is also sought for alteration of access arrangements and car park reconfiguration to the existing Asda store which includes a new slip road access to the north of the existing car park, adjacent to the existing entrance and exit to the car park. A speed table is proposed at the pedestrian footlink between Asda and Homebase on Little Bellsland Road. A pedestrian island is proposed to Little Bellsland Road to allow improved pedestrian access from the superstore car park to the petrol filling station. A recycling area is proposed to the location of the previous car park entrance to the south of the car park and the previous car park access is closed. The applicant also proposes "no waiting" restrictions at the area immediately south of the Superstore at the bus stop and on Little Bellsland Road, extending from the petrol filling station to the proposed car park entry/exit.

1.2 Condition No 1 of planning consent No: 96/0406/FL states: "the proposed development shall be carried out in accordance with the application form and plans submitted on 05 September 1996 revised by the amended plans received by the Planning Authority on 04 November 1996."

Condition 2 of the planning consent 96/0406/FL states:

"The gross floorspace of the superstore shall be limited to 6325 square metres with a net sales area of 2790 square metres for convenience goods only and net sales area of 929 square metres for comparison goods only."

REASONS In order to safeguard the viability and vitality of the town centre.

The application seeks to vary the above conditions.

1.3 The applicant has submitted a Retail Supporting Statement and Addendum Retail Statement and a Transport Assessment and Travel Plan relative to their proposals. The retail statement provides an assessment of the proposals against Policy RTC5 of the East Ayrshire Local Plan and details of the sequential analysis carried out by the applicant. Following discussions with the Planning, Development and Building Standards Division, the applicant updated their position relative to their sequential analysis, providing comments on further locations within or adjacent to Kilmarnock Town Centre. The applicant has also provided data and analysis relative to trade diversion and impact the proposals would have on Kilmarnock town centre and other retail centres beyond.

1.4 The Travel Plan outlines proposals to encourage walking, cycling, the use of public transport and measures to reduce car travel amongst staff at the Asda Superstore. The Transport Assessment examines the effects of the proposed mezzanine floor on car parking; non-car accessibility and traffic conditions in the vicinity of the site.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated at 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 Plan (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The Council's Roads and Transportation and Environmental Health and Waste Management Divisions have no adverse comments to make in relation to the proposals. The proposed road alterations are considered acceptable. However, it is considered that the additional floorspace contravenes the aims of the recently approved Kilmarnock Town Centre Strategy. The Strategy states clearly that out-of-centre retailing will be resisted in favour of a town centre location and it directs retailing to the town centre. Furthermore the application is also considered contrary to NPPG 8, as the presence of an established development should not in itself set a precedent or provide justification where such expansion would be inconsistent with the development plan and/or the policy principles contained in NPPG8. The applicant has not given due consideration to the sequential approach in relation to their proposals as they have failed to fully consider a number of units within the town centre or adjacent to the town centre. Whilst the impact of the additional

comparison floorspace may be presented as minimal on the vitality and viability of the town centre, the cumulative impact does give rise to serious concern and in the long term such development would erode the vitality, viability and character of the town centre.

3.3 In conclusion, the proposal does not represent an acceptable departure from the Development Plan and cannot be justified in terms of Section 25 of the Town and Country Planning (Scotland) 1997.

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.

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 31 MARCH 2006

**05/0984/FL: VARIATION OF CONDITION NO.1 OF PLANNING PERMISSION 96/0406/FL TO ALLOW ALTERATIONS TO THE ACCESS AND ASSOCIATED HIGHWAY AND CONDITION NO. 2 OF PLANNING PERMISSION 96/0406/FL TO ALLOW AN ADDITIONAL 929 SQUARE METRES OF COMPARISON FLOORSPACE
AT: 10 QUEENS DRIVE, KILMARNOCK
BY: ASDA STORES LTD.**

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 Development Services Committee under the scheme of delegation as it is considered contrary to the Development Plan and recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a 3.3 hectare site comprising the existing Asda Superstore having a gross floor space of 6325 square metres, associated car parking and a Petrol Filling Station to the frontage of Queens Drive. The application site is bound by retail units within the Queens Drive Retail Park to the north and south and by Queens Drive with Kilmarnock Rugby Football Club playing fields beyond to the east. To the west are City Electrical Factors' premises with the Power League five-a-side football pitches and pavilion beyond.

2.2 **Proposed Development:** Full planning permission is sought for the creation of a 929 square metres gross floor area mezzanine floor within the existing superstore for the sale of comparison goods. Consent is also sought for alteration of access arrangements and car park reconfiguration to the existing Asda store which includes a new slip road access to the north of the existing car park, adjacent to the existing entrance and exit to the car park. A speed table is proposed at the pedestrian footlink between Asda and Homebase on Little Bellsland Road. A pedestrian island is proposed to Little Bellsland Road to allow improved pedestrian access from the superstore car park to the petrol filling station. A recycling area is proposed to the location of the previous car park entrance to the south of the car park and the previous car park access is closed. The applicant also proposes "no waiting" restrictions at the area immediately

south of the Superstore at the bus stop and on Little Bellsland Road, extending from the petrol filling station to the proposed car park entry/exit.

2.3 Condition No 1 of planning consent No: 96/0406/FL states: “the proposed development shall be carried out in accordance with the application form and plans submitted on 05 September 1996 revised by the amended plans received by the Planning Authority on 04 November 1996.”

Condition 2 of the planning consent 96/0406/FL states:

“The gross floorspace of the superstore shall be limited to 6325 square metres with a net sales area of 2790 square metres for convenience goods only and net sales area of 929 square metres for comparison goods only.”

REASONS In order to safeguard the viability and vitality of the town centre.

The application seeks to vary the above conditions.

2.4 The applicant has submitted a Retail Supporting Statement and Addendum Retail Statement and a Transport Assessment and Travel Plan relative to their proposals. The retail statement provides an assessment of the proposals against Policy RTC5 of the East Ayrshire Local Plan and details of the sequential analysis carried out by the applicant. Following discussions with the Planning, Development and Building Standards Division, the applicant updated their position relative to their sequential analysis, providing comments on further locations within or adjacent to Kilmarnock Town Centre. The applicant has also provided data and analysis relative to trade diversion and impact the proposals would have on Kilmarnock town centre and other retail centres beyond.

2.5 The Travel Plan outlines proposals to encourage walking, cycling, the use of public transport and measures to reduce car travel amongst staff at the Asda Superstore. The Transport Assessment examines the effects of the proposed mezzanine floor on car parking; non-car accessibility and traffic conditions in the vicinity of the site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the proposed development and have commented as follows:

a) The Travel Plan is acceptable. The proposed footpath link from Little Bellsland Road is welcomed as there are considerable pedestrian movements across Little Bellsland Road between the Homebase site and Asda. The footpath should connect the existing speed table of Little Bellsland Road adjacent to the car park entrance/exit. It is recommended that the speed table is upgraded to

become a raised zebra crossing which would improve the safety of pedestrians crossing at this location. The Roads Division would like to see the footpath connection and pedestrian crossing works completed at the earliest opportunity.

b) The Council can promote a Traffic Regulation Order to prohibit parking on the access road. The junction visibility at the proposed exit should be $x=4.5$ and $y=70$ metres. This will require the ground to the right of the exit to be lower than 0.9 metres within the visibility envelope.

c) The entrance to the car park should be amended to form a slip road to reduce vehicle entry speeds.

d) The location of the proposed pedestrian island adjacent to the petrol station should be checked for the delivery tanker vehicle swept path.

The requirements of the Roads Division with regard to the proposed road alterations can be addressed by attaching conditions to any grant of planning consent.

3.2 The Piersland/Bentinck Community Council and Ayrshire Structure Plan Team have not responded to their consultation letter at the time of writing this report.

Noted.

3.3 The East Ayrshire Council Environmental Health and Waste Management Division have no objections to the proposed development

Noted.

4. REPRESENTATIONS

4.1 There are no third party objections.

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).

Ayrshire Joint Structure Plan (AJSP)

5.2 The proposed development would fall to be considered against Policies L7, L8 and L9. Policy L7 refers to measures to promote and enhance town centres and Policy L8 encourages the viability, vitality and design quality of existing town centres. Proposals for retail development above 1500 square metres gross floorspace require to be assessed against Policy L9 of which the criteria A-C are similar criteria used in Policy RTC5 and are addressed in Section 5.5 of this report. As the proposed development is for 929 square metres of additional comparison floorspace, it does not require to be assessed against Policy L9.

The impact of the proposed development on the vitality and viability of the town centre and the application of the sequential test have been assessed in Section 5.3 and 5.4 of this report.

East Ayrshire Local Plan (EALP)

5.3 Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail and other uses appropriate to town centres as described in Schedule 5 of the Plan. Applicants proposing such developments in out-of-town centre locations are required to demonstrate that no suitable alternative site can be found or assembled within town centres and thereafter in an edge-of-centre location.

The proposed development is in an out-of-centre location and in an area that has not been designated in the East Ayrshire Local Plan for further non-bulky comparison goods retailing. Whilst it has been argued that Queens Drive is an existing retail location, the provisions of NPPG8 (paragraph 46) state that the presence of an established development should not in itself set a precedent or provide justification where such expansion would be inconsistent with the development plan and/or the policy principles contained in NPPG8. It also advises that if the proposed expansion does not accord with the strategy set out in the development plan it should be assessed against the criteria indicated in NPPG8 (paragraph 45) which is duplicated in Policy RTC5 of the East Ayrshire Local Plan. The proposed development has been assessed against sequential approach in Section 5.5.

5.4 Policy RTC3 states that all development proposals falling within the classes of development detailed in Schedule 5 of the Local Plan will be directed to:

- (i) Kilmarnock and Cumnock Town Centres if the proposed gross floor space exceeds 1,500m²; and

- (ii) All town centres if the proposed gross floor space is less than 1,500m².

The proposed development requires to be directed to a town centre location under this policy and therefore the development is contrary to Policy RTC3.

5.5 Policy RTC5 states that, in assessing all out-of-centre retail and other Schedule 5 development proposals, the proposed development requires to be assessed against the following criteria.

- (i) Whether the applicants have adopted a sequential approach and can demonstrate that no suitable alternative sites are available within or on the edge of town centres;

Under paragraph 13 of NPPG8 and in support of town centre vitality and viability, retailers and developers are required to take a more flexible approach to the format, design and scale of their proposals.

“They should address the need to identify and assemble sites which can meet not only their requirements but in a manner sympathetic to the town setting. As part of such an approach, they should consider the scope for accommodating the proposed development in a different built form, and where appropriate adjusting or sub-dividing large proposals. Consideration should also be given to whether the range of goods to be sold, including, say, bulky, electrical and fashion goods, could be retailed from a town centre or edge-of-centre site, in some cases in a different manner.”

Whilst the applicant has identified a number of sites within and adjacent to the town centre they have dismissed them all for a variety of reasons, e.g. too small, within a listed building and thus not conducive to modern retailing, not appropriate for retail. The applicant has also claimed that the specialist nature of the proposal, i.e. an internal mezzanine, is only appropriate for the shell of an existing large superstore but they do not conclusively explain why this is the case. It is assumed there are advantages in terms of site layout and development costs for the applicant, however the interests of the wider community and the potential benefits to the wider community from locating within the town centre have not been properly considered. In any event, it is considered that the applicant has not exhibited the degree of flexibility required under NPPG8 regarding format, scale and design of their proposed development.

Furthermore the applicant has not undertaken a sufficient assessment of town centre or edge of town centre sites as required. They have considered the following sites (all within the town centre) in detail.

1) 167 Titchfield Street (former Kwik Save) – A planning application has been received and subsequently approved for retail units on this site. Unit 2 within this proposed development is for 929 square metres of gross floor space, as indicated by Asda as their requirement for this mezzanine proposal. Asda are of the opinion that these units will not be available within a reasonable period of time and would not be commercially viable due to the additional investment required in terms of staff provision, facilities, lighting, heating, infrastructure and necessary physical alterations. This is not considered sufficient reasons to discount this development for the development proposed.

2) 7 Armour Street (former Texstyle World) – Existing vacant retail unit. The unit comprises 1,314 sq m (gross) of modern retail floor space. Asda consider this unit not to be commercially viable due to the additional investment required in terms of staff provision, facilities, lighting, heating, infrastructure and the need to establish dedicated financial systems at the location. It is also discounted as a viable option by Asda due to the close proximity of the Asda Superstore at Queens Drive. Again the reasons put forward by Asda are not considered sufficiently valid to discount this site for the development proposed.

Other vacant units within the town centre have not been explored fully such as the former cinema in Titchfield Street, No 74-76 Titchfield Street the former bank building at The Cross and units in Portland Street. Many of the reasons for discounting vacant units are not considered valid and reasonable. As indicated above much emphasis is placed by Asda on their own financial requirements and no consideration is given to adopting a more innovative or flexible approach. It is considered that the applicant has not fully complied with the requirements to satisfy the sequential approach as advised by NPPG8 and RTC5 of the East Ayrshire Local Plan.

In conclusion it is considered that the proposed additional floorspace cannot be justified under the terms of the sequential test as the proposed development could be accommodated within a number of vacant units/sites in the town centre, or edge of town centre.

- (ii) Whether the proposal would affect, either individually or cumulatively, the vitality and viability of town centres and whether the scale of the proposal is appropriate to its location;

The amended retail statement prepared by the applicant does indicate the proposals would have a very small impact on Kilmarnock Town Centre and this is accepted by this Division. However, the cumulative impact of potential future proposals of a similar nature does create concerns for the long term vitality and viability of Kilmarnock Town Centre.

It is acknowledged that Kilmarnock loses a significant amount of retail expenditure annually and this loss has implications for the long-term sustainability of Kilmarnock.

The applicant's argument that the potential development would reclaim leakage is disputed. According to NPPG8, by focusing development (particularly retail) in locations where the proximity of other businesses facilitates competition, there are benefits for the consumer and in maintaining a healthy and vibrant town centre. There is little existing non-bulky comparison goods' retailing at Queens Drive and it has not been identified within the Local Plan for further comparison goods retailing. Any expansion of an existing retail store at Queens Drive does not promote the diversity of shopping options that Kilmarnock requires to reclaim the loss of comparison goods expenditure to other shopping centres.

Applications for development of the type proposed set a dangerous precedent whereby an applicant can incrementally increase floor space for non-bulky comparison goods, each time indicating an 'acceptable' level of impact on the town centre. However in the long term it is considered such developments cumulatively impact upon the vitality, viability and character of the town centre. It is considered that by increasing the size of the range of goods on offer at the store, the effect of the proposed development would be that shoppers would have even less need to visit the town centre. The new store would provide no benefits for Kilmarnock town centre. This would have serious implications for the newly approved Kilmarnock Town Centre Strategy which aims to strengthen and transform the town centre as discussed fully in Section 6.5. This is the most updated Statement by the Council in terms of retailing and the high priority being given to town centre retailing is an important material consideration.

The future vitality and viability of Kilmarnock town centre depends on continued investment in it or at edge-of-centre locations that provide potential synergistic benefits, not at an out-of-centre location where further comparison goods retailing has not been identified in the local plan. Kilmarnock would likely benefit more from Asda indicating a degree of flexibility and a commitment to the sustainable future of Kilmarnock by locating their proposal within

the town centre where there have been shown to be available sites. Such development would focus attention back on the centre, increase footfall, increase options for town centre shoppers and raise the image of Kilmarnock town centre.

- (iii) whether the proposal is accessible to a choice of means of transport;

Queens Drive is served by regular bus links whilst there are no rail links.

- (iv) the effect of the proposal on travel patterns, infrastructure and road works;

It is considered that the majority of users of Queens Drive visit via private car. Queens Drive is also fairly isolated from any residential development and as an out-of-centre location receives little pedestrian traffic. According to paragraph 5 in NPPG8, development should be located where there is better access by public transport, walking and cycling and less dependence on access by car. As stated above the Queens Drive Retail Park is well served by Bus Operators. The road alterations proposed as part of this application will improve vehicular access to the existing superstore however it will do little to improve access to the superstore for people without a car.

- (v) Whether the proposal would be compatible with other uses in the surrounding area;

The proposed development is in an out-of-centre location and in an area that has not been designated for further non-bulky comparison goods retailing. Whilst it has been argued that Queens Drive is an existing retail location, the provisions of NPPG8 state in paragraph 46 that the presence of an established development should not in itself set a precedent or provide justification where such expansion would be inconsistent with the development plan and/or the policy principles contained in NPPG8.

- (vi) whether the design of the proposed building would be acceptable;

The development proposal is for an internal mezzanine, therefore there are no issues with the proposed design.

- (vii) The effect of the proposal on the environmental quality, character and amenity of the area; and

As the development proposal involves an internal mezzanine there are no issues regarding environmental quality, character and amenity.

(viii) Whether the proposal would be compatible with other local plan policy objectives.

The primary policy objective regarding retail development is for the protection and enhancement of the town centre as primary locations for retail and other town centre related developments. The proposed development does not adhere to this objective and would undermine efforts to enhance the town centre.

5.6 Policy RTC7 supports retail development proposals in out-of-town centre locations where:

- (i) the proposal relates to a site specifically identified for such purposes on the Local Plan maps.
- (ii) the proposal is for a local shop or shops not exceeding a total of 200m² gross floor area and falling within Class 1 of the Use Classes Order.
- (iii) the proposal is for a factory shop, not exceeding 200m² gross floor area.
- (iv) the proposal is for a farm shop.
- (v) the proposal is for a tourism, leisure or recreation related retail development.
- (vi) the proposal is for the sale of coal or other minerals direct from an extraction site.

The proposed development cannot be accommodated within the above policy.

5.7 Policy RTC8 requires all major retail development including extensions to existing premises which create over 1,500m² gross retail floorspace to be supported by a formal Retail Impact Assessments addressing the criteria detailed in Policy RTC5 above. Transport Impact Assessments will also be required where major retail development proposals have significant transport and traffic implications.

The application is accompanied by two Retail Statements and a Transportation Assessment and Travel Plan which are detailed in Section 2.4 and 2.5 of the report.

5.8 Policy RTC9 supports proposals to extend existing 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 200 square metres; and
- (iii) is of a high quality design and finish.

Any extension which would result in a total gross ground floorspace in excess of 200 square metres will be assessed on its own merits against the provisions of Policy RTC5 (i) to (vii).

The proposed development cannot be accommodated within the above policy. It has been assessed against Policy RTC5 in Section 5.5.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultations which are detailed in Section 3 of the report, the planning history of the site, NPPG8 “Town Centres and Retailing” and the Kilmarnock Town Centre Strategy.

Consultations and Representations

6.2 The consultations are detailed at Section 3 above, and do not raise any issues that would warrant refusal of this application. There are no third party representations.

Planning History

6.3 96/0406/FL: Proposed Class 1 retail superstore, petrol filling station, associated car parking facilities, service yard and construction of roundabout at Queens Drive/ Little Bellsland Road approved with conditions 17 February 1997. Condition 1 and 2 of this planning permission are detailed in section 2.2 of the report. Condition No. 2 restricted the amount of comparison floorspace to 929 square metres. The present application seeks to increase the amount of comparison floorspace by an additional 929 square metres.

Kilmarnock Town Centre Strategy

6.4 The Kilmarnock Town Centre Strategy was approved by the Development Services Committee on 20 December 2005 and is the most up to date Council statement on retailing. The strategy intends to guide investment, improvements and growth to the town centre to the benefit of Kilmarnock and East Ayrshire generally and resists out of town centre proposals. It sets out a vision for the town centre and a programme of projects and actions to enhance its position and ensure its future viability and vitality. It is considered that the proposed development would contravene the principles of the strategy as the applicant has not fully considered the possible options available with regard to the floorspace

being located within the town centre. The proposed mezzanine floor within the existing Asda store on Queens Drive is for the sale of comparison goods which, it is considered, would be of greater benefit if the proposed retail floorspace was located within the town centre.

NPPG 8 Town Centres and Retailing

6.5 NPPG8 provides guidance to Planning Authorities relative to the Scottish Executive's commitment to retailing within town centres. As stated above the proposed development is not considered to accord with the provisions of NPPG8 in that it is considered that the applicant has not fully adopted a sequential approach to their proposals by having discounted a number of town centre or edge of centre locations (which would otherwise meet their requirements) due to the close proximity of the existing Asda Superstore. It is clear from NPPG8 that the presence of an established development should not in itself set a precedent or provide justification where such expansion would be inconsistent with the development plan and/or the policy principles contained in NPPG8 as indicated above.

Finalised Draft – Ayrshire Joint Structure Plan

6.6 The finalised draft of the Ayrshire Joint Structure Plan was approved by the three Ayrshire Council's and has subsequently been referred to the Scottish Ministers for consideration in mid February 2006.

Policy Comm 6 – "Town Centres" is relevant and states:

The three Councils shall promote the viability of town centres by proposals that:

- (A) Encourage a wide range of retail, commercial, business, entertainment and leisure and residential opportunities;
- (B) Provide development of a size and scale appropriate to the function of the centre and serve the needs of its catchment;
- (C) Identify sufficient land to accommodate development to meet the projected growth in surplus retail expenditure set out in Schedule 6 having regard to extant planning permissions for retail development, land allocated through local plans and the level of vacant premises;
- (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;
- (E) Restrict new retail floorspace at out-of-centre locations to the sale of Do-It-Yourself, furniture, carpets electrical and gardening goods; and
- (F) Keep under review the retail capacity assessment and have regard to any revised figures when identifying land in accordance with (C) above

The additional floorspace is contrary to Policy Comm 6 of the Finalised Draft Ayrshire Joint Structure Plan which restricts in particular new retail floorspace at out-of-centre locations. Furthermore, it would have an adverse cumulative impact on the vitality and viability of the town centre. The application of the sequential test has not been fully and comprehensively undertaken.

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 at 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 Plan (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The Council's Roads and Transportation and Environmental Health and Waste Management Divisions have no adverse comments to make in relation to the proposals. The proposed road alterations are considered acceptable. However, it is considered that the additional floorspace contravenes the aims of the recently approved Kilmarnock Town Centre Strategy. The Strategy states clearly that out-of-centre retailing will be resisted in favour of a town centre location and it directs retailing to the town centre. Furthermore the application is also considered contrary to NPPG 8, as the presence of an established development should not in itself set a precedent or provide justification where such expansion would be inconsistent with the development plan and/or the policy principles contained in NPPG8. The applicant has not given due consideration to the sequential approach in relation to their proposals as they have failed to fully consider a number of units within the town centre or adjacent to the town centre. Whilst the impact of the additional comparison floorspace may be presented as minimal on the vitality and viability of the town centre, the cumulative impact does give rise to serious concern and in the long term such development would erode the vitality, viability and character of the town centre.

8.3 In conclusion, the proposal does not represent an acceptable departure from the Development Plan and cannot be justified in terms of Section 25 of the Town and Country Planning (Scotland) 1997.

9. RECOMMENDATION

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

CONTRARY DECISION NOTICE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application will require to be referred to Development Services Committee as this would be a significant breach of Council policy.

Alan Neish

Head of Planning, Development and Building Standards

LIST OF BACKGROUND PAPERS

1. Application form and plans
2. Statutory Notices and certificates
3. Consultation responses
4. Adopted East Ayrshire Local Plan
5. Approved Ayrshire Joint Structure Plan
6. Planning Application nos: 96/0406/FL
7. The Kilmarnock Town Centre Strategy Report
8. NPPG8 Town Centres and Retailing

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

Implementation Officer: Alan Neish

24 March 2006

BD/RH

FV/DVM

050984FLand960406FL10QueensDriveKilmarnockRH

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0948/FL

Site of Proposal: ASDA STORES LTD, 10 QUEENS DRIVE
KILMARNOCK, KA1 3XF

Nature of Proposal: Variation of condition no. 1 of planning permission 96/0406/fl to allow alterations to the access and associated highway, and condition No. 2 of planning permission No. 96/0406/FL to allow an additional 929 square metres of comparison floorspace.

NAME & ADDRESS OF APPLICANT: ASDA STORES LTD

Name & Address of Agent: GVA GRIMLEY LLP
QUAYSIDE HOUSE
127 FOUNTAINBRIDGE
EDINBURGH
EH3 9QG

DPOs Reference: BD/RH

The above full application should be refused for the following reasons:

1. The proposed additional floorspace is contrary to policies RTC1, RTC3 and RTC5 of the Adopted East Ayrshire Local Plan as the applicant has not fully complied with the requirement for a sequential approach which directs retail development to town centres first and foremost then to edge of centres and only if sites are not available in these two areas is an out-of-centre location acceptable. Furthermore the proposed development would have a cumulative impact on the future viability and vitality of Kilmarnock Town Centre.
2. The proposed additional floorspace is contrary to the aims and vision of the recently approved Kilmarnock Town Centre Strategy which intends to guide investment, improvements and growth to Kilmarnock town centre and resists further out of centre retailing.

3. The proposed additional floorspace is contrary to Policies L7 and L8 of the Approved Ayrshire Joint Structure Plan as it will have an adverse impact on the vitality and viability of the town centre and the application of the sequential test has not been fully and comprehensively undertaken.
4. The proposed additional floorspace is contrary to Policy Com 6 of the Finalised Draft of the Ayrshire Joint Structure Plan which restricts new retail floorspace at out-of-centre locations to the sale of do-it-yourself, furniture, carpets electrical and gardening goods. Furthermore it would have an adverse impact on the vitality and viability of the town centre and the application of the sequential test has not been fully and comprehensively undertaken.

**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.**