

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 10 DECEMBER 2004

**04/0842/FL: PROPOSED ERECTION OF A CLASS 1 RETAIL UNIT, MEANS
OF ACCESS, SERVICING AND ADDITIONAL WORKS AND FACILITIES
AT HIGH GLENCAIRN STREET, KILMARNOCK
BY LIDL UK GMBH**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for a 1381 square metres gross floor area discount food store to be positioned to the north and east of the site. The main features of the proposal comprise the following:-

- Vehicular access to the north western corner of the site.
- The car park would comprise 76 spaces plus 7 disabled spaces. The car park bays will be finished in block paviers and manoeuvring areas completed in tarmacadam.
- The building will be of rectangular shape comprising a total length of 59 metres by 26 metres and of maximum height 8.2 metres.
- The building will be of simple design comprising white render panels and red facing brick columns and a pitched roof canopy feature with zinc panelled gable end at the pedestrian entrance into the store. The pitched roof will be finished in a grey roof tile with small roof features to break up the expanse of roof and all window frames and doors will be metal in a blue powder coated finish.
- Pedestrian entrance to the store will be to the south of the site with glazing on the west and south elevations. Entrance will be via a pitched canopy with trolley bays stored underneath.
- The service yard will be formed to the northern boundary with James Little Street. A delivery vehicle will reverse into the site to the delivery bay which is internal. The pallets of goods are then off-loaded from the vehicle straight into the store and onto the sales area. All transfer and storage of goods take place within the building.
- At the corner of the site at Glencairn Square it is proposed to locate a piece of public art/sculpture to enhance the Square.

- The boundary of the site will be identified by landscaping along all boundaries.
- It is proposed to erect an acoustic close boarded screen fence along the northern boundary to the properties on James Little Street to negate noise intrusion and on High Glencairn Street and James Little Street, the site boundary will be defined by galvanised metal hoops.
- All refuse will be stored internally and shipped back in the daily delivery vehicle to the applicant's Livingston Regional Distribution Centre and then processed and sent to the appropriate re-cycling facilities.

1.2 The applicants have submitted supporting information regarding their operation and why the building is sited to the rear and car parking to the front of the unit. They have advised that they have incorporated features of adjacent traditional buildings within the design of the proposed unit.

1.3 The applicant has advised that all reasonable measures will be undertaken to ensure minimum disruption to residents of James Little Street during the delivery of goods. Deliveries take place once per day and the articulated lorry ramps down to a dock leveller where the tail of the vehicle engages with the loading bay via a manually operated drawbridge system. The goods are then loaded/unloaded via a pallet truck operated by the delivery driver. All Lidl delivery vehicles are fitted with a rear parking alert although if deliveries are to occur outwith acceptable hours this can be immobilised if considered safe to do so. The delivery should last no more than 20 minutes with all goods moved directly onto the shop floor by staff. With regard to lighting, the delivery bay is illuminated and lighting is situated under the eaves to minimise impact on surrounding areas and is designed to eliminate urban sky glow. Levels are set to the minimum requirements for safe working practice and in accordance with the company's efficient energy policy. Car park lighting is centrally controlled subject to a timer programme based on store opening hours and photo to cell control to maximise energy efficiency.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated at Section 5 of the report, the application is considered to be in accordance with the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local 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 indicated in Section 5 of this report the EALP is supportive of the proposal. The proposal is located within the town centre where there is a mix of different uses and the site historically was used for commercial purposes primarily car sales, until earlier this year. As such there was a significant level of activity taking place associated with this business within the site. The development has been designed and sited to minimise its impact on adjacent residential properties. Deliveries will take place once per day and all loading/unloading of the vehicle will take place within the building. The design and materials of the building is compatible with the surrounding buildings and will integrate within the townscape. The concerns of the objectors are noted however they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns regarding road safety have not been supported by the Roads Division. A landscaping scheme is proposed along the boundary of the site which will enhance the surrounding environment.

3.3 The development will add considerably to the amenity of the area by developing a derelict vacant site and replacing it with a well designed modern retail unit. The proposed development will further extend the existing retail opportunities available within the town centre.

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 the application will not require to be referred to the Development Services Committee because 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: 10 DECEMBER 2004

04/0842/FL: PROPOSED ERECTION OF A CLASS 1 RETAIL UNIT, MEANS OF ACCESS, SERVICING AND ADDITIONAL WORKS AND FACILITIES AT HIGH GLENCAIRN STREET, KILMARNOCK BY LIDL UK GMBH

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 because it is a larger application of area significance which is in accordance with the East Ayrshire Local Plan and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the former car sales showroom and industrial offices at High Glencairn Street extending to High Glencairn Square and having a frontage onto East Shaw Street. The site is fairly level and in area is 0.463 hectares. The site is bound to the north by residential properties on High Glencairn Street and James Little Street, to the east by industrial/commercial property, to the south by East Shaw Street beyond which is the Hunting Lodge Public House and industrial property at Glencairn Industrial Estate and to the west by High Glencairn Street and the commercial/residential/vacant properties beyond.

2.2 **Proposed Development:** Full planning permission is sought for a 1381 square metres gross floor area discount food store to be positioned to the north and east of the site. The main features of the proposal comprise the following:-

- Vehicular access to the north western corner of the site.
- The car park would comprise 76 spaces plus 7 disabled spaces. The car park bays will be finished in block paviors and manoeuvring areas completed in tarmacadam.
- The building will be of rectangular shape comprising a total length of 59 metres by 26 metres and of maximum height 8.2 metres.

- The building will be of simple design comprising white render panels and red facing brick columns and a pitched roof canopy feature with zinc panelled gable end at the pedestrian entrance into the store. The pitched roof will be finished in a grey roof tile with small roof features to break up the expanse of roof and all window frames and doors will be metal in a blue powder coated finish.
- Pedestrian entrance to the store will be to the south of the site with glazing on the west and south elevations. Entrance will be via a pitched canopy with trolley bays stored underneath.
- The service yard will be formed to the northern boundary with James Little Street. A delivery vehicle will reverse into the site to the delivery bay which is internal. The pallets of goods are then off-loaded from the vehicle straight into the store and onto the sales area. All transfer and storage of goods take place within the building.
- At the corner of the site at Glencairn Square it is proposed to locate a piece of public art/sculpture to enhance the Square.
- The boundary of the site will be identified by landscaping along all boundaries.
- It is proposed to erect an acoustic close boarded screen fence along the northern boundary to the properties on James Little Street to negate noise intrusion and on High Glencairn Street and James Little Street, the site boundary will be defined by galvanised metal hoops.
- All refuse will be stored internally and shipped back in the daily delivery vehicle to the applicant's Livingston Regional Distribution Centre and then processed and sent to the appropriate re-cycling facilities.

2.3 The applicants have submitted supporting information regarding their operation and why the building is sited to the rear and car parking to the front of the unit. They have advised that they have incorporated features of adjacent traditional buildings within the design of the proposed unit.

2.4 The applicant has advised that all reasonable measures will be undertaken to ensure minimum disruption to residents of James Little Street during the delivery of goods. Deliveries take place once per day and the articulated lorry ramps down to a dock leveller where the tail of the vehicle engages with the loading bay via a manually operated drawbridge system. The goods are then loaded/unloaded via a pallet truck operated by the delivery driver. All Lidl delivery vehicles are fitted with a rear parking alert although if deliveries are to occur outwith acceptable hours this can be immobilised if considered safe to do so. The delivery should last no more than 20 minutes with all goods

moved directly onto the shop floor by staff. With regard to lighting, the delivery bay is illuminated and lighting is situated under the eaves to minimise impact on surrounding areas and is designed to eliminate urban sky glow. Levels are set to the minimum requirements for safe working practice and in accordance with the company's efficient energy policy. Car park lighting is centrally controlled subject to a timer programme based on store opening hours and photo to cell control to maximise energy efficiency.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Economic Development and Property Division support the development as it is considered that the proposed store would enhance the range of retail options available and although not a vast number of jobs will be created, these will be welcome as providing employment opportunities for local people. It is also significant that the site subject to this application is being sold due to another business that is re-locating to facilitate its expansion and the funds from the land sale will be an important part of that funding package.

Noted.

3.2 Transco and East Ayrshire Council's Legal Services have no objections to make regarding the proposed development.

Noted.

3.3 SEPA and the Piersland Bentinck Community Council have not replied to their consultation letters at the time of writing this report.

Noted.

3.4 Scottish Water objects due to the cost of providing infrastructure to serve the development being outwith their "reasonable cost" obligations. They would remove their objection if the applicant bears the cost of the increase in capacity of Scottish Water's existing infrastructure to accommodate this development and/or promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system.

A note can be attached to any grant of planning consent advising the applicant of the requirements of Scottish Water.

3.5 East Ayrshire Council's Roads and Transportation Division advise as follows:-

Access and Parking

1. The servicing of the facility requires to be demonstrated by a vehicle swept path for the designed articulated vehicle.
2. The existing vehicle access points on East Shaw Street and High Glencairn Street should be reinstated as footway. Such work will require the developer to obtain a road opening permit prior to commencement of the works from the Roads Division.
3. The boundary between the footway and the car park is not detailed on the plans. A barrier will be required between the footway and the parked cars and surface water run off must be contained within the site.
4. The new commercial crossing must be constructed to adoptable road standard.

Item 1 has been addressed through the Transport Assessment detailed below and items 2 and 4 can be addressed via an advisory note should Members choose to grant consent. In terms of Item 3, the applicant has submitted details although should Members choose to grant consent, this can be subject to a condition to allow the agreement of further details.

Transport Assessment

The analysis submitted by the applicant has demonstrated that the predicted traffic generation from the proposed store can be accommodated without any significant adverse effect on the adjacent road network. The proposed means of access is to be provided by a priority junction on High Glencairn Street that will comprise a yellow box. A northbound bus stop requires to be provided at an appropriate location and the servicing of the unit should be restricted to outwith opening hours. The applicant should also submit a Green Travel Plan.

The requirements of the Roads and Transportation Division can all be dealt with by planning condition should Members choose to grant consent.

3.6 East Ayrshire Council's Environmental Health and Waste Management Division raise no objections although comment as follows:-

1. There could be contaminants (such hydrocarbons, mineral and fuel oils, antifreeze and asbestos) present in the soil from previous activities.

Underground petrol storage tanks are also present and perhaps behind the filling station and garage and a risk assessment requires to be submitted to assess the risk of exposure from contaminants.

2. Whilst the unloading bay is less than ideal, the applicant has submitted its measures to mitigate against any potential disruptions. The sloped delivery ramp will reduce the effective working height. It is not necessarily classed as "subterranean" and the physical visual impact of the vehicle will be at least partially apparent to adjoining residents. In terms of noise the lorry engine should be switched off as soon as the driver has reversed into the delivery bay. The applicant should also clarify whether the delivery vehicle will be fitted with a compressor unit (to transport frozen food) which will be in operation when the vehicle is parked. These units can be noisy and a common source of complaint.
3. The use of an electric pallet truck should minimise noise although there will be noise from cages moving goods. Whilst good handling practice should help to minimise such noise it is unlikely to eliminate it completely and this leads to consideration of the delivery schedule and the provision of acoustic fencing. The proposed once daily delivery should be agreed with the applicant and a delivery timetable window also built-in.
4. The fence will mask the site at ground level, however for the fence to form a totally effective acoustic barrier, it would have to be to a considerable height. This would totally shade the back garden areas and rear windows on the ground floor. Any fence should be nevertheless a compromise to provide a mainly visual barrier with some degree of acoustic insulation.
5. Clarification is sought on whether all waste will be stored within the unloading reception area or externally in which case they can be stored tidily and secure from random vandalism. It is pleasing to note that all packaging will be recycled although this will not eliminate the production of waste and tidy, hygienic and secure storage are again applicable to avoid nuisance.
6. Careful design and installation of lighting in the delivery bay is necessary to ensure minimal directional intrusion to adjacent houses. Potential problems can be further reduced if lighting is only activated when deliveries are being made and also if delivery runs are restricted. Noting the timer-control on car park lighting, this should eliminate night time impact although it remains important to minimise nuisance light into adjacent housing.
7. Given the proximity to adjacent housing, the proposals are not ideal although the applicants appear to be committed to undertaking all reasonable measures to ensure minimum disruption to the residents of James Little Street.

The comments of Environmental Health regarding contaminants, delivery times, control of engine operation of the delivery lorry and the details and operation of the delivery lorry and the details and operation of external lighting within the site can be addressed by attaching conditions to any grant of planning consent. The applicants have confirmed that delivery lorries are not refrigerated and as such there are no compressor units. Environmental Health have agreed therefore, that there should be no noise impact in this respect. All frozen goods are transported in chiller cabinets that are moved directly off the vehicle. The applicant has also advised that they are willing to have reasonable discussions with neighbours to agree suitable boundary treatment.

3.7 East Ayrshire Council's Trading Standards Service advise that there are 3 underground 5000 gallon capacity storage tanks located to the left of the existing sales office, installed parallel to each other. The tanks were steam cleaned and gas freed in 1982. There is no mention on file if the tanks were infilled by any material on site. The underground tank manholes can be clearly seen on the site forecourt with their corresponding vent pipe located on the corner of the rear wall of the building. The site plans also show a 4 stage petrol interceptor located to the left side of the existing site entrance against the boundary wall. Prior to commencing works on site, the appointed competent contractor should send in a method statement and risk assessment for the removal of the underground tanks and pipework. The tanks should be rendered safe before any works begin to exhume the tanks from the site. Only cold cutting techniques should be used to minimise the risk from fire and explosion.

These issues will primarily be considered by Building Standards in the consideration of any application for a Building Warrant. The issues raised however also link with the contamination issues raised in Section 3.6 of this report and can be addressed by attaching a condition to any grant of planning consent.

4. REPRESENTATIONS

A total of thirteen parties have submitted objections including one letter from Scottish Water that is detailed in Section 3.4 above. The objections are detailed as follows:-

4.1 Neighbour notification has not been received by residents at James Little Place.

The applicant has certified that all appropriate neighbour notification has been delivered to relevant parties.

4.2 The proposed development will affect the local rates and values of property in the surrounding area.

This is not a material planning consideration.

4.3 There is a surplus of 4 supermarkets in a square mile and with the closure of Kwik Save, Lidl should be directed to that site.

The present application should be considered on its own merits.

4.4 James Little Street has existing problems with excess traffic and parking. A serious accident is inevitable and traffic congestion will be exacerbated. Between 4 - 6 pm there are already tailbacks along the main street and turning out of James Little Street. There are no fewer than 8 sets of traffic lights/pedestrian crossings and it is hard to see how HGV's will access the site.

As detailed in Section 3.5 East Ayrshire Council's Roads and Transportation Division have considered the access to the site and traffic levels as a result of the development to be acceptable. The applicant operates with one delivery per day and therefore delivery traffic to the site will be minimal.

4.5 Heavy delivery vehicles will pass approximately a few metres of a tenement building which has foundations in excess of 100 years old.

The application site was previously used for car sales and heavy vehicles would have accessed the site. It is not considered that delivery vehicles will affect the foundations of adjacent properties.

4.6 The applicant has treated residents very unfairly and have given no consideration to residents quality of living as they first heard about the proposal through an article on the front page of the Kilmarnock Standard advising that the site would be operational by December 2004. This was before neighbour notification was received.

The adjacent neighbours have been notified of the proposed development and the development has also been advertised in the local press.

4.7 The proposed development is likely to have an adverse effect on residents' quality of living. The building is far too close to the residential properties on James Little Street and the 8 metre high building will block all natural daylight to the rear of these properties. Bedrooms, kitchens and gardens are to the rear facing the site and the supermarket will be too close. All privacy, views and peace and quiet will be eliminated.

The proposed building has been sited and designed to minimise its impact on adjacent properties. The application site is a brownfield site located within the town centre where there is a mixture of uses in close proximity. The site for many years has been used as a petrol filling station and for car sales which generated a significant amount of activity within the site. The adjacent flats are located in an urban area where there are already significant levels of noise and disturbance and therefore the residents experience a lower level of amenity than if they lived in a predominantly residential area.

4.8 The warehouse and delivery areas are less than 5 feet from the garden fence of those properties on James Little Street. The gardens of these properties are compact and comprise the only garden area they have. The new building will comprise an invasion of privacy.

The new building will not invade the privacy of the property as it does not have any gable windows that will overlook the rear of the residential properties. One delivery is proposed per day and based on the information provided by the applicant lasts for approximately 20 minutes. The ramped access and activities associated with the transferral of goods from lorry to store will not significantly detract from neighbours' privacy by staff overlooking their properties as all deliveries will take place internally within the building.

4.9 Deliveries will take place within 5 metres of bedroom windows and warehouses for supermarkets operate on a 24-hour basis with refuse and air conditioning units operating continuously. This will cause noise pollution affecting health, ability to sleep etc. There will also be noise from forklift truck drivers and staff moving containers of goods around. Deliveries can take place at all kinds of hours as it is a grocery outlet thus requiring fresh produce every day.

The applicant has indicated that one delivery will take place per day and it will take place within the building. A condition can be attached to the planning consent to restrict the hours of delivery in order to take account of the neighbouring residential properties.

4.10 Skips are normally kept to the rear of buildings and will encourage vermin and affect the health of residents. Rubbish stored at the site will demand a high standard of cleanliness.

All refuse will be stored within the building and no skips or other receptacles will be stored outside. All refuse will be shipped back in the daily delivery vehicle to the applicant's Livingston regional Distribution Centre.

4.11 The ventilation units that will be used by the store will affect the quality of air surrounding the property.

There will be no ventilation units on the property and one refrigeration plant will be located on the eastern elevation. This equipment will be located away from the residential properties. Final details and location of the ventilation equipment can be agreed through a condition attached to the planning permission.

4.12 Residents object to the proposed removal of the wire security fence and replacement with a wooden sound proofing fence as this will not negate sound problems and will be detrimental to the security of all properties. The existing fence has been an effective detriment so far to break-ins and any wooden fence beside the existing fence will only assist in access to these properties.

The applicant has advised that if planning permission is granted, they will discuss the boundary treatment with neighbours in an attempt to reach mutual agreement prior to submitting a plan for final agreement to the Council.

4.13 Lidl should given serious consideration to altering the location of the warehouse/loading bay. It should be re-located for access from East Shaw Street where the only neighbours are commercial buildings and a public house. The Lidl store in Stevenston has the loading bay and ventilation system on the right-hand side of the store and the same should be carried out here. The store in Stevenston has residential properties behind it but not in line with the runway to the loading area and the ventilator systems are not backing onto the housing.

Due to the size and configuration of the site, the loading bay is constrained to the north west corner of the site. The applicant has designed the building to minimise the impact of any deliveries on adjacent properties. This is addressed fully in Section 2.4.

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 be 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 and the Adopted East Ayrshire Local Plan (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 The proposed development complies with the policies of the AJSP.

Adopted East Ayrshire Local Plan (2003)

5.3 Policy RTC 1 directs retail development to the town centre. Policy RTC2 is relevant and states that the types of development as detailed in Schedule 5 of the local plan will be considered acceptable on sites within designated town centre boundaries, in principle.

The proposed development complies with Policies RTC 1 and RTC 2 of the EALP.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are NPPG 8 Town Centres and Retailing, the statutory consultations and representations detailed in Sections 3 and 4 of the report, the planning history of the site and the design of the proposed building and site layout.

NPPG 8 Town Centres and Retailing

6.2 NPPG 8 recognises the important role town centres play in offering a range, quality and convenience of services and activities that are attractive, not only to the local population, but also to visitors and investors. Sustaining the vitality and viability of town centres depends on continuing investment in new developments and it is recommended that Planning Authorities and developers should adopt a sequential approach to selecting sites for new retail developments.

The application site is located within the designated town centre as stated in Section 5 of this report and therefore satisfies the sequential approach advocated by NPPG 8.

Consultations and Representations Received

6.3 The consultations and representations received are detailed in Sections 3 and 4 of this report. It is not considered that these highlight issues or are of such weight as to merit refusal of the application rather where there are concerns these have been satisfactorily addressed in the submission or can be dealt with by condition.

Planning History

6.4 The site at High Glencairn Street was previously used as a petrol filling station. In 1986 planning permission (KL/W/85/75A) was granted to change the use of a factory warehouse to car showroom and storage workshop on East Shaw Street. The building at the junction with High Glencairn Square was

previously used by the Clydesdale Bank prior to being occupied by A J Clark. In 2003 (03/0582/FL) planning permission was granted for the High Glencairn Street site to demolish the existing workshop and canopy and erect a new car showroom although this consent was never implemented.

Site Layout and Design

6.5 The site has been sympathetically laid out and has been discussed in detail with this Division. Amended plans and a significant level of supporting information has been submitted which clarify the proposed site layout. The car park will be formed in a sympathetic manner using appropriate materials and landscaping to break-up the expanse of frontage. The introduction of a sculpture will provide a point of interest to enhance Glencairn Square. Whilst the artwork has yet to be determined, Lidl have indicated their initial thoughts to commission work that is of historic interest to the Square.

6.6 The building is of simple design using colours and materials prevalent in the surrounding area. The use of grey roof tiles, red facing brick and white render takes elements of surrounding buildings in order to blend the development into the streetscene. Whilst the building is located to the rear of the site, not following the High Glencairn Street building line, this allows for a more open character and limits the impact in visual terms of a larger building. The planting of landscaping around all boundaries of the site will help soften the car park.

6.7 The proposed development has been designed in such a manner to take as much cognisance as possible of neighbouring uses and in particular the adjoining residential properties. The applicant has provided details of the company's operating practices that will assist in mitigating any impact of the proposed development.

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 considered to be in accordance with the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local 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 indicated in Section 5 of this report the EALP is supportive of the proposal. The proposal is located within the town centre where there is a mix of different uses and the site historically was used for commercial purposes primarily car sales, until earlier this year. As such there was a significant level of activity taking place associated with this business within the site. The development has been designed and sited to minimise its impact on adjacent residential properties. Deliveries will take place once per day and all loading/unloading of the vehicle will take place within the building. The design and materials of the building is compatible with the surrounding buildings and will integrate within the townscape. The concerns of the objectors are noted however they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns regarding road safety have not been supported by the Roads Division. A landscaping scheme is proposed along the boundary of the site which will enhance the surrounding environment.

8.3 The development will add considerably to the amenity of the area by developing a derelict vacant site and replacing it with a well designed modern retail unit. The proposed development will further extend the existing retail opportunities available within the town centre.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed 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 the application will not require to be referred to the Development Services Committee because there would be no significant breach of Council policy.

Alan Neish
Head of Planning, Development and Building Standards

02 December 2004
(FMF/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Public Advertisement.
3. Consultation Responses.
4. Letters of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. NPPG 8 Town Centres and Retailing.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0842/FL

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|------------------------------|--|
| Site of Proposal: | High Glencairn Street KILMARNOCK |
| Nature of Proposal: | Proposed Erection of a Class 1 Retail Unit, Means of Access, Car Parking, Landscaping, Servicing and Additional Works and Facilities |
| Name & Address of Applicant: | Lidl UK GMBH Tailend Farm Deans Industrial Estate Deans Road LIVINGSTON EH54 8SA |
| Name & Address of Agent: | Smith Design Associates 16 Lynedoch Crescent GLASGOW G3 6EQ |

DPOs Reference: FMF/MMM

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

1. The proposed development shall be carried out in accordance with the application form received on 20 August 2004, plans received on 08 July 2004 and 20 August 2004, amended proposed site plan, proposed floor plan and elevations all received on 02 November 2004 and 11 November 2004 and the Transport Assessment received on 02 November 2004 (and supplementary details received from JMP consulting on 23, 24 and 30 November 2004) and the Lidl Design Statement received by the Planning Authority on 02 November 2004 and letter from Lidl dated 04 November 2004.

REASON To ensure that development is carried out in accordance with the approved details.

2. Prior to the commencement of any works on site, details and samples of all finishes and colours to be used as external materials on the proposed

development shall be submitted to and approved in writing by the Planning Authority and thereafter implemented as approved on site.

REASON In order to ensure the visual integration of the proposed development with the surrounding area.

3. Prior to any works commencing on site, details of the external security lighting for the car parking area and service yard/delivery bay shall be submitted to and approved in writing by the Planning Authority. Said details shall include the design, style, positioning and wattage of the external lighting scheme which shall be installed and in operation prior to the commencement of trading of the retail unit hereby approved. The external lighting shall operate thereafter without interference and disturbance in terms of light spillage to neighbouring properties.

REASON In the interests of the amenity of the surrounding area.

4. Notwithstanding the approved plans, prior to the commencement of works on site, details including the location and specifications of all refuse bins (including skips) within the development site and including the provision for the collection of commercial waste, shall be submitted to and approved in writing by the Planning Authority. All refuse bins as approved, shall be installed on site prior to the commencement of trading of the retail unit and maintained thereafter.

REASON In the interests of the amenity of the area.

5. Notwithstanding the plans hereby approved, and prior to the commencement of any works on site, details and samples of the finishes to all car parking and vehicle manoeuvring areas shall be submitted to and approved in writing by the Planning Authority and implemented as approved. Particular consideration must be given to the introduction of finishes which will be compatible with the attainment of a Sustainable Urban Drainage solution in accordance with the CIRIA Manual of March 2000.

REASON In order to ensure a visually acceptable development that is appropriate in terms of Sustainable Urban Drainage.

6. At no time unless with the prior written consent of the Planning Authority, shall any retail trading occur or goods be stored outwith the internal floorspace of the retail unit hereby approved.

REASON In the interests of visual amenity of the area.

7. During construction, the developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining

the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of public and road safety.

8. The development hereby approved shall be undertaken without detriment to neighbouring properties both residential and commercial by virtue of noise, dirt or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

9. No external construction work, site clearance or preparation works shall take place before 07:00 hours and after 18:00 hours Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of the amenity of neighbouring residential property.

10. No materials other than topsoil shall be brought onto the site for the purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in the making up of ground levels.

11. No development shall begin on site with the exception of site investigative works until a scheme to deal with the contamination arising from the long term usage of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:

1. The nature, extent and type(s) of contamination on the site.
2. A site specific risk assessment of all relevant pollutant linkages.
3. Remediation measures to treat/remove contamination to ensure the site is fit for the use proposed.
4. Measures to deal with unsuspected contamination discovered during construction works.
5. Condition of the site on completion of de-contamination measures.
6. Details of measures to remove all pipes, interceptor and underground storage tanks on site as a result of the petrol filling station and car workshop use and remedial measures to fill the ground levels facing their removal.

Before the retail unit hereby approved is occupied the measures to de-contaminate the site shall be fully implemented as approved by the Planning Authority.

REASON In the interests of residential amenity and public safety.

12. On completion of the remedial works approved under the terms of Condition 11 above, and prior to the retail units being occupied, the developer shall submit a report which shall be approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.

REASON To provide verification that remediation of contamination has been carried out in accordance with the remediation plan.

13. Prior to the commencement of trading on site, all car parking spaces identified on the approved site plan (as amended) shall be laid out and maintained thereafter.

REASON To ensure appropriate car parking facilities exist for the retail store.

14. Prior to the commencement of any works on site, details of a landscaping scheme and a maintenance scheme for all landscaped areas shall be submitted to and approved in writing by the Planning Authority. All landscaped areas shall thereafter be laid out and maintained as approved no later than the first available planting season following the completion of the development. The landscaping scheme shall provide for a dense and varied level of planting to all landscape areas including the provision of an effective visual screen along the northern site boundary with the residential properties on James Little Street. The scheme shall also be designed to achieve dense foliage integrating the use of colour and variety in plant selection.

REASON In order to ensure a visually acceptable development.

15. Notwithstanding the plans hereby approved, details of the boundary treatment of the site (including details of the retaining wall to the east boundary) shall be submitted to and approved in writing by the Planning Authority. Said details shall specifically include details of the proposed boundary treatment along the northern boundary with James Little Street and shall provide full details of the galvanised hoops along High Glencairn Street. All boundary treatment shall be implemented on site as approved prior to the commencement of trading from the retail unit and shall be maintained thereafter.

REASON In the interests of visual amenity and to ensure that adequate boundary treatment exists.

16. There shall be no more than one delivery per day to the retail unit without the prior written consent of the Planning Authority.

REASON In the interests of residential amenity.

17. Further to the Condition 16 above all deliveries to the site shall take place between the hours, on Monday to Friday, of 7:00 am and 9:00 am or 8:00 pm and 9:00 pm, on Saturdays of 7:00 am and 8:00 am or 6:00 pm and 8:00 pm, and on Sundays of 8:00 am and 10:00 am or 6:00 pm and 8:00 pm. No deliveries shall take place outwith these hours without the prior written consent of the Planning Authority.

REASON In the interests of residential amenity and road safety.

18. Prior to any work commencing on site details of the design of the artwork/sculpture to be located at the south-western site boundary shall be submitted to and approved in writing by the Planning Authority. The artwork/sculpture shall thereafter be formed as approved on site within 6 months of the unit being open for trading.

REASON These details have not been submitted.

19. At all times during deliveries to the retail unit hereby approved, the rear parking indicator of the delivery vehicle shall be switched off unless otherwise agreed in writing with the Planning Authority. Prior to the commencement of works on site, the applicant shall confirm in writing an alternative safety method to highlight the presence of the delivery vehicle on site.

REASON In the interests of amenity of adjacent residential properties.

20. No works shall commence on site until details of the provision of a northbound bus stop, with a raised kerb (and adjusted footway levels to suit) and to be provided at High Glencairn Street, have been submitted to and approved in writing by the Planning Authority. The bus stop shall thereafter be provided as approved prior to any trading from the retail unit.

REASON To ensure that there are appropriate facilities for use by people wishing to access the store by the existing bus services on that route.

21. Prior to the commencement of any works on site, a comprehensive Green Travel Plan (GTP) shall be submitted to and approved in writing by the Planning Authority. All measures arising from the GTP shall be installed on site prior to the opening of the retail unit.

REASON To promote and implement sustainable travel patterns.

22. All deliveries to the proposed development once operational shall be from within the application site and no unloading shall be undertaken from outwith the site unless with the prior written approval of the Planning Authority.

REASON In the interests of road and traffic safety as traffic conditions on surrounding streets do not readily allow for the parking and manoeuvring of such unloading operations.

23. All delivery vehicles shall enter and leave the site in forward gear.

REASON In the interests of road and traffic safety as traffic conditions on surrounding streets do not readily allow for the parking and manoeuvring of such unloading operations.

24. Prior to any work commencing on site, details of the location and design of the yellow box priority junction to be provided at the access to the site from High Glencairn Street shall be submitted to and approved in writing by the Planning Authority. The approved junction shall thereafter be formed on site as approved prior to the commencement of trading from the retail unit.

REASON In the interests of road safety.

NOTES:-

1. Scottish Water have advised that the applicant should contact Scottish Water at an early date at their offices at 35 Glenburn Road, Prestwick (Tel No: 0845 601 8855).
2. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
3. Notwithstanding the approved plans and the provisions of the Town and Country Planning (Control of Advertisement)(Scotland) Regulations 1984, no fascia signs, adverts or projecting signs shall be erected on the premises or within the application site, without the prior express written consent of the Planning Authority.
4. The applicant is advised to make early contact with Transco on 0141 418 4093 to discuss whether any Transco apparatus will be affected by this development.

**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.**