

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 04 JUNE 2004**

**04/0187/FL: PROPOSED CHANGE OF USE FROM VEHICULAR REPAIR  
WORKSHOP TO FORM CLASS 1 RETAIL UNIT  
AT 2A NEW MILL ROAD, KILMARNOCK  
BY MR R FLEMING**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The applicant proposes to change the use of the building from a vehicular repair workshop latterly used by Budget Tyres and Exhausts. The applicant proposes to use the premises for Class 1 retail use under the Town and Country Planning (Use Classes) (Scotland) Order 1997 for the operation of the Kilmarnock Pram Centre. Amended Plans show that the existing access to the front yard will be closed to vehicular traffic and used only for pedestrian access. Customer parking will be within the rear tarmacadamed area where 10 car parking spaces will be provided, 3 of which will be for staff parking and there will be a loading/unloading and turning area for deliveries.

1.2 In support of his application, the applicant has advised that he has been seeking larger premises for approximately 1 year. He has advised that he has done so with the following principles in mind:

- Wishing to remain in Kilmarnock where the business has been long established.

1.3 In support of his application, the applicant has advised that he has been seeking larger premises for approximately 1 year. He has advised that he has done so with the following principles in mind:

- Wishing to remain in Kilmarnock where the business has been long established.
- A minimum area of 6000/7000 square feet.
- Ground floor area.
- Vehicle access.

1.4 He advises that he operates a family-run Ayrshire business and has been based in Kilmarnock for some 20 years. Two years ago he added prams and nursery goods to the business ("The Wool-Sak") and their nursery section now outstrips the historical business with customers coming not only from Ayrshire but Glasgow, Renfrewshire and Dumfries.

1.5 There is no other business in Kilmarnock selling similar goods and Mothercare serves a different section of the nursery market (clothing and

pushchairs) whilst he sells larger goods such as cots, nursery furniture, car seats, full size prams etc. Having established themselves he wishes to remain in Kilmarnock and has considered properties located within the designated town centre in addition to other areas at East Shaw Street, West Shaw Street, Western Road and Glasgow Road without success. The main problem was the lack of parking which is vitally important and the current site meets all their needs.

1.6 Forty-five full size prams are displayed in their showroom and their format is demonstrated to customers. Fitting into customers' cars is also carried out on several occasions as customers often return 3 or 4 times before committing to a purchase.

1.7 The display and fitting process also refers to car seats and the fitting of these is often demonstrated in customers' cars. Goods can either be collected or delivered and a pram-repair service is also operated.

1.8 Whilst the showroom extends to some 4000 square feet, a large space is required for storage as prams etc are ordered and stored until required. The applicant advises that he is wholeheartedly committed to this venture as a family business and is currently redefining his business profile to finance the venture. He is committed to the property and aims to develop it as an important asset to Kilmarnock operating an attractive venture on a visible site which will link the retail park and the town centre. He believes it will retain spending within the town and will result in increased job prospects.

## **2. RECOMMENDATION**

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

## **3. CONCLUSIONS**

3.1 As is indicated in Section 5 of the report, the application is not in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

3.2 As is indicated in Section 6 of the report, there are material considerations relevant to this application. Taking the material considerations together it is considered that a departure from the policies of the Adopted East Ayrshire Local Plan can be justified in this instance due to the particular nature of the proposal and history of the site. It is considered that the justification provided by the applicant and the nature and range of goods to be sold by the business, warrant an exception to policy. It is considered that the proposal would not conflict with the retail and town centre development strategy of the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan

as the proposal will not have an adverse impact on the vitality and viability of Kilmarnock 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 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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**04/0187/FL: PROPOSED CHANGE OF USE FROM VEHICULAR REPAIR  
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BY MR R FLEMING**

**Report by Head of Planning, Development and Building Standards**

### 1. PURPOSE OF REPORT

1.1 The purpose of the report is to present for determination a full planning application which is to be considered by the Central Local Planning Committee under the scheme of delegation because it is a larger application of area significance which is contrary to the provisions of the Adopted East Ayrshire Local Plan.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a white rendered building located at the Lawson Street/New Mill Road/Old Mill Road/Wellbeck Street roundabout to the east of Kilmarnock town centre. The building includes a front tarmac area enclosed by wire mesh fencing and a rear yard. The site is bound to the north by residential flatted properties, to the east by industrial property, to the south by the New Mill Road beyond which is The Discount Tile and Bathroom Showroom and to the west by Old Mill Road beyond which are commercial shop units and a public house.

2.2 **Proposed Development:** The applicant proposes to change the use of the building from a vehicular repair workshop latterly used by Budget Tyres and Exhausts. The applicant proposes to use the premises for Class 1 retail use under the Town and Country Planning (Use Classes) (Scotland) Order 1997 for the operation of the Kilmarnock Pram Centre. Amended Plans show that the existing access to the front yard will be closed to vehicular traffic and used only for pedestrian access. Customer parking will be within the rear tarmacadamed area where 10 car parking spaces will be provided, 3 of which will be for staff parking and there will be a loading/unloading and turning area for deliveries.

2.3 In support of his application, the applicant has advised that he has been seeking larger premises for approximately 1 year. He has advised that he has done so with the following principles in mind:

- Wishing to remain in Kilmarnock where the business has been long established.
- A minimum area of 6000/7000 square feet.

- Ground floor area.
- Vehicle access.

2.4 He advises that he operates a family-run Ayrshire business and has been based in Kilmarnock for some 20 years. Two years ago he added prams and nursery goods to the business (“The Wool-Sak”) and their nursery section now outstrips the historical business with customers coming not only from Ayrshire but Glasgow, Renfrewshire and Dumfries.

2.5 There is no other business in Kilmarnock selling similar goods and Mothercare serves a different section of the nursery market (clothing and pushchairs) whilst he sells larger goods such as cots, nursery furniture, car seats, full size prams etc. Having established themselves he wishes to remain in Kilmarnock and has considered properties located within the designated town centre in addition to other areas at East Shaw Street, West Shaw Street, Western Road and Glasgow Road without success. The main problem was the lack of parking which is vitally important and the current site meets all their needs.

2.6 Forty-five full size prams are displayed in their showroom and their format is demonstrated to customers. Fitting into customers’ cars is also carried out on several occasions as customers often return 3 or 4 times before committing to a purchase.

2.7 The display and fitting process also refers to car seats and the fitting of these is often demonstrated in customers’ cars. Goods can either be collected or delivered and a pram-repair service is also operated.

2.8 Whilst the showroom extends to some 4000 square feet, a large space is required for storage as prams etc are ordered and stored until required. The applicant advises that he is wholeheartedly committed to this venture as a family business and is currently redefining his business profile to finance the venture. He is committed to the property and aims to develop it as an important asset to Kilmarnock operating an attractive venture on a visible site which will link the retail park and the town centre. He believes it will retain spending within the town and will result in increased job prospects.

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

3.1 The Coal Authority and Piersland Bentick Community Council have not responded to their consultation at the time of writing the report.

***Noted.***

3.2 Transco have recommended early contact with their organisation to discuss the effect of the development on Transco equipment.

***Noted. Should Members choose to grant consent, an advisory note can be attached to any decision.***

3.3 East Ayrshire Council's Roads and Transportation Division have no objections to the amended plans which detail closure of the vehicular access facing onto a roundabout on road safety grounds and directing vehicular access to the rear.

***Noted.***

#### **4. REPRESENTATIONS RECEIVED**

4.1 No letters of representation have been received.

#### **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 (2000) and the Adopted East Ayrshire Local Plan (2003).

5.2 The application requires to be considered against Policy L8 of the Ayrshire Joint Structure Plan which states that the viability, vitality and design quality of Kilmarnock's town centre shall be maintained and enhanced. Any application requires to meet the following criteria:

##### Approved Ayrshire Joint Structure Plan

- A) New retailing and leisure development shall be directed firstly to the town centre and then edge of centre in preference to out-of-centre locations;
- B) Application for retail, commercial and leisure developments shall need to demonstrate that no suitable site can be found firstly and preferably within town centres or secondly on the edge of centres; and,
- C) Developments should be of a size and scale appropriate to the function of the centre and should serve the needs of the town and its catchment.

***Noted. The application site is out-of-centre and although the supporting information provided by the applicant detailed in paragraph 2.2 of the report details proposals to sell bulky goods which would be acceptable without adversely affecting the viability and vitality of the town centre, it is also noted that with the exception of Mothercare, the applicant is the only retailer within the Kilmarnock catchment engaged in this type of trade. The business also offers the opportunity to retain spending within the catchment area and also to prevent further leakage.***

## Adopted East Ayrshire Local Plan

5.3 Policies RTC1 and RTC5 are relevant in the consideration of this application. Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail and other town centre uses. Applications proposing such developments in out-of-centre locations are required to demonstrate that no suitable alternative site can be found or assembled within town centres or thereafter on edge-of-centre location.

***Noted. The supporting information provided by the applicant and the response to paragraph 5.2 above is relevant to the consideration of the application under Policy RTC1. The applicant has undertaken a sequential approach to site selection and whilst the proposal is contrary to policy, it is considered that an exception would be appropriate although subject to a condition limiting sales to bulky goods.***

5.4 Policy RTC 5 states that in assessing all out of centre retail development proposals, the Council will have regard to certain stated criteria namely whether:-

- (i) the applicant has adopted a sequential approach and can demonstrate that there are no suitable alternative sites;
- (ii) the proposal would affect (individually or cumulatively) the vitality and viability of town centres and whether the scale of the proposal is appropriate to its location;
- (iii) the proposal is accessible to a choice of means of transport;
- (iv) there will be an effect of the proposal on travel patterns, infrastructure and road works;
- (v) the proposal would be compatible with the other uses in the surrounding areas;
- (vi) the design of the proposed building will be acceptable;
- (vii) the effect of the proposal on the environmental quality, character and amenity of the area.

***Members are referred to paragraphs 5.2 and 5.3 of this report and to the supporting information detailed in Section 2 which states that the vast majority of goods are large in size and bulky in nature. It is considered that any impact on town centre vitality and viability would be negligible given the lack of town centre trade in such items and the availability of sites of a sufficient size.***

***It is noted the Roads and Transportation Division find the proposal acceptable and that the site is surrounded by a mix of uses and this proposed change of use will not therefore be incompatible with the surrounding area. There are no external design considerations and there is not expected to be an adverse effect on the environmental quality, character and amenity of the area.***

## **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 the planning history of the site.

### 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 proposed development lies outwith the town centre boundary and the developer has adopted a sequential approach to the selection of the site.***

### Statutory Consultations

6.3 The content of the statutory consultation responses has been addressed in Section 3 of this report. None of the statutory consultees have raised any negative issues which would warrant refusal of this application.

### Planning History

6.4 Planning Permission (Ref. 97/0783/FL) was granted subject to conditions on 24 November 1997 for the "Change of Use from Retail Warehouse to Tyre and Exhaust Depot and MOT Servicing and Also Accessory Retail Sales."

## **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 in Section 5 of the report, the application is not in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 of the report, there are material considerations relevant to this application. Taking the material considerations

together it is considered that a departure from the policies of the Adopted East Ayrshire Local Plan can be justified in this instance due to the particular nature of the proposal and history of the site. It is considered that the justification provided by the applicant and the nature and range of goods to be sold by the business, warrant an exception to policy. It is considered that the proposal would not conflict with the retail and town centre development strategy of the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan as the proposal will not have an adverse impact on the vitality and viability of Kilmarnock Town Centre.

## **9. RECOMMENDATION**

**9.1 It is recommended that this planning application be approved subject to the conditions on the attached sheet.**

### **CONTRARY DECISION NOTE**

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

**Alan Neish**  
**Head of Planning, Development and Building Standards**

20 May 2004  
(FMF/RB/SA/MMM)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form/Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Adopted East Ayrshire Council Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. NPPG 8 "Town Centres and Retailing".
7. Planning Application: 97/0783FL

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

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 04/0187/FL

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Site of Proposal:	2A New Mill Road KILMARNOCK, KA1 3JF
Nature of Proposal:	Proposed Change of Use from Vehicular Repair Workshop to Form Class 1 Retail Unit
Name & Address of Applicant:	Mr R Fleming 5A Bridge Street AYR, KA9 1PM
Name & Address of Agent:	James W Mair 25 Woodside Avenue KILMARNOCK, KA1 1TU

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DPOs Reference: FMF/RB/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 and layout plan received on 12 February 2004 and the amended location and site plans received on 22 April 2004 and supporting letter and enclosures received from R and B Fleming dated 25 March 2004.

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

2. Prior to the commencement of trading from the retail unit hereby approved all car parking spaces shall be formed as approved on the amended site layout plan and maintained thereafter as approved.

REASON In order to ensure that adequate car parking and servicing facilities exist for the retail development.

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

REASON In the interests of visual amenity of the area.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1997, the range of goods to be sold from the proposed retail unit hereby approved shall be restricted to the sale of DIY, furniture, carpets, electrical, gardening and other bulky goods and the range of goods identified in the letter from R and B Fleming dated 25 May 2004 as approved under the terms of Condition 1.

REASON To enable the Planning Authority to retain control over the development of the site to maintain the integrity of Structure and Local Planning policies and the vitality and viability of the town centre of Kilmarnock.

5. Prior to the commencement of any works on site, details of the proposals to close the existing vehicular access and replace it with a pedestrian access shall be submitted to and approved in writing by the Planning Authority and shall thereafter be implemented and maintained as approved for the access of pedestrians only prior to the commencement of retail trading from the unit.

REASON In the interests of road safety.

6. At no time during trading from the retail unit shall any cars or other non-servicing vehicles be parked within the loading/unloading and servicing area as detailed on the approved site plan layout.

REASON In order to ensure that adequate car parking and servicing facilities exist for the retail development.

#### NOTES

1. 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.

2. This permission relates to a change of use only and does not include planning permission for any external alterations. The applicant is advised to make early contact with Planning, Development and Building Standards at 6 Croft Street, Kilmarnock to discuss any proposed external alterations.

3. Early contact with Transco is recommended on 0141 418 4093 to discuss whether any Transco apparatus will be effected 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.**