

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 02 JUNE 2006**

**05/0500/FL: CHANGE OF USE OF VACANT UNIT TO CLASS ONE  
RETAIL PREMISES  
AT 43 CAMPBELL PLACE, RICcartON, KILMARNOCK  
BY THIRDPART PROPERTIES LTD**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the use of the premises for Class One, shop use, in terms of the Town and Country Planning Use Classes (Scotland) Order 1997. The premises, following modernisation after a period of becoming derelict, gained planning consent for a Class Two, Financial Professional and Other Services (Office) use in 2005 however this consent has never been implemented on site. This application is retrospective as the property is presently being used as a hairdresser.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be approved.**

**3. CONCLUSIONS**

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

3.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The proposal accords with Policy RTC 11 of the Adopted East Ayrshire Local Plan as it is for the re-use of a vacant unit which, until internal upgrading was carried out last year, was derelict and had a detrimental impact on the amenity of the area. The proposals are in keeping with the adjacent uses. The applicants supporting statement is noted and in particular, the potential security and amenity issues associated with the unit being unoccupied, given the premises have been vacant for a considerable time in the past. It is considered that the concerns of the objectors, whilst noted, are not of sufficient weight to warrant the refusal of the application. In relation to the objector's request for the consent to be limited to a hairdressing salon only, this would be difficult to sustain in terms of Government guidance contained in Circular 4/1998. It is not considered that other Class 1 retail

uses in an established purpose built parade of 4 shops/offices would have a significant detrimental impact on the amenity of the area which would warrant such conditions to be imposed.

### **CONTRARY DECISION NOTE**

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

**Alan Neish**

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

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to objections.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site extends to approximately 0.0058 hectares and comprises a ground floor commercial unit within a 1970's purpose built two storey building containing office accommodation and a hot food takeaway to the ground floor and flatted dwellings to the first floor of the building. The unit was vacant for approximately 9 years, having previously been utilised as a bookmakers. The application site is bound to the north by a vacant former public house and flatted dwellings, to the south by the Riccarton Community Centre and residential dwellings beyond, to the west by the Bickets Seat/Fiat Car showroom and repairs centre and to the east by the communal amenity space and access/parking area for the flatted dwellings above the application site.

2.2 **Proposed Development:** Full planning permission is sought for the use of the premises for Class One, shop use, in terms of the Town and Country Planning Use Classes (Scotland) Order 1997. The premises, following modernisation after a period of becoming derelict, gained planning consent for a Class Two, Financial Professional and Other Services (Office) use in 2005 however this consent has never been implemented on site. This application is retrospective as the property is presently being used as a hairdresser.

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

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

***Noted.***

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

**Noted.**

#### **4. REPRESENTATIONS**

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

4.2 They have no objections to a hairdresser although query why the application seeks to change the use of Class two premises to Class one, given the class two consent granted last year was never brought into use and had expired.

***Planning Consent 05/0500/FL, for the re-instatement of Class 2 use at 43 Campbell Place was granted on 30 June 2005. This planning permission was never implemented on site and therefore the use of the property remained abandoned until the property was recently occupied by a hairdressers. Planning permission is required for this retrospective Class 1 use.***

4.3 Neighbour Notification was not served to both flats above the retail unit.

***The applicant has indicated the correct neighbour notification was carried out and has further advised, in writing, that all identifiable neighbours have been correctly served with the statutory neighbour notification.***

4.4 They feel that the Class One use should be restricted to the hairdresser only with the use reverting to a Class Two use upon the use altering from a hairdressing salon in the future.

***Circular 4/1998 - The Use Of Conditions in Planning Permissions states at Paragraph 86 that conditions should not be imposed to restrict permitted development rights or prevent future changes of use which the use classes order would otherwise allow. The Secretary of State (now Scottish Ministers) would regard such conditions as unreasonable unless there was clear evidence that the uses excluded would have serious adverse effects on the amenity of the environment, that there was no other form of control and that the condition would serve a clear planning purpose.***

4.5 There is no need for any other Class One retail units within the area as there is already an oversupply of newsagents ( one of which closed down recently) shops, hot food takeaways and retail units within walking distance of the area. Should a permanent Class One use be granted this would be detrimental to the area due to over supply.

**No substantive evidence is submitted indicating that there is an over supply of Class One retail units in the area. The application site is a purpose built shop/office unit and the proposed use is compatible with the building and area.**

4.6 The proposed use would be detrimental to their son's health as he suffers from learning and behavioural difficulties and also to the neighbouring family who now have a young daughter.

**Whilst the objector's concerns relative to their son's health are noted, it is not considered that their concerns are significant enough to recommend refusal of a purpose built retail unit returning to a Class 1 retail unit within an established parade of four retail/office units. It is not considered that the proposed Class 1 use retail use will have a detrimental impact on the amenity of the area.**

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (EALP).

### The Approved Ayrshire Joint Structure Plan

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

### The Adopted East Ayrshire Local Plan (EALP)

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

**The proposed use complies with the above policy as the property was originally built to be utilised as a shop, which falls within the same use class as a hairdressers. The property had been vacant for approximately nine years and had fallen into a state of disrepair. Following the applicant being granted planning consent in 2005 for the change of use of the vacant property to a Class 2 use the applicant has leased the property to a Class 1 use (hairdresser) and has subsequently made a retrospective planning application.**

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

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

### Consultations and Representations

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

### Planning History

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

6.4 Planning consent was granted for the Change of Use of an unused shop to a licensed betting office on 15 December 1980. However this use was abandoned approximately 9 years ago.

6.5 Planning Application No: 05/0500/FL, Proposed re-instatement of Class 2 planning consent approved by Central Local Planning Committee on 30 June 2005. This permission was never implemented on site.

### Supporting Statement Submitted by Applicant

6.6 The applicant has submitted a statement in support of their application. A brief summary of the supporting statement is detailed as follows:

6.7 The property has been vacant for 9 years until the applicant carried out extensive refurbishment. During the period the property was vacant there was vandalism on-site and break-ins. It is considered preferable in terms of security and amenity of the surrounding area that a suitable tenant is in occupancy.

6.8 Small scale retail and office units are common on the ground floor premises of flatted properties.

6.9 They understand that concern has previously been expressed relating to potential noise disturbance – there is no reason why Class 1 use of this, or any other ground floor unit with flats on upper floors, should in any way create excessive noise; this mix of uses is clearly established in Kilmarnock and indeed virtually every other area of East Ayrshire and Scotland.

6.10 They stress that no physical alterations are proposed to the unit; this application simply relates to the change of use. Consequently, no noisy construction operations are proposed.

6.11 They believe concern has also been expressed in relation to parking rights by residents. They state that a common right of access exists to the rear yard for parking and unloading.

6.12 They understand the proposal complies with the Development Plan.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in the determination of this application.

## **8. CONCLUSIONS**

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

8.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The proposal accords with Policy RTC 11 of the Adopted East Ayrshire Local Plan as it is for the re-use of a vacant unit which, until internal upgrading was carried out last year, was derelict and had a detrimental impact on the amenity of the area. The proposals are in keeping with the adjacent uses. The applicants supporting statement is noted and in particular, the potential security and amenity issues associated with the unit being unoccupied, given the premises have been vacant for a considerable time in the past. It is considered that the concerns of the objectors, whilst noted, are not of sufficient weight to warrant the refusal of the application. In relation to the objector's request for the consent to be limited to a hairdressing salon only, this would be difficult to sustain in terms of Government guidance contained in Circular 4/1998. It is not considered that other Class 1 retail uses in an established purpose built parade of 4 shops/offices would have a significant detrimental impact on the amenity of the area which would warrant such conditions to be imposed.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved.**

## **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**

24 May 2006  
(BD/RH/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Representations.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Town and Country Planning (Use Classes) (Scotland) Order 1997.
8. Circular 4/1998: The Use Of Conditions in Planning Permissions.

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

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0310/FL

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Site of Proposal: 43 Campbell Place  
KILMARNOCK  
KA1 4DY

Nature of Proposal: Proposed Change of Use of Vacant Unit to  
Class One Retail Premises

Name & Address of Applicant: Thirdpart Properties Ltd  
149 Dundonald Road  
KILMARNOCK  
KA1 1UG

Name & Address of Agent: Graham and Sibbald  
Chartered Surveyors  
5 St Marnock Place  
KILMARNOCK  
KA1 1DU

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DPOs Reference: BD/RH

The above FULL application should be granted .

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PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**