

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 15 OCTOBER 2004

**04/0617/FL: PROPOSED CHANGE OF USE FROM CLASS 4, 5,6
BUSINESS USE TO CLASS 11 HEALTH AND LEISURE/WEIGHT LOSS
AT: BLOCK 2, UNIT 2 GLENCAIRN INDUSTRIAL ESTATE,
BELLSLAND GROVE, KILMARNOCK
BY MR HUGH MULGREW**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought to change the use of the building from Class 4,5,6 business use to form a weight loss and fitness centre specifically dedicated to women and lying within Class 11 of the Use Classes Order. The applicant has also indicated that 3 vehicle-parking spaces will be provided on-site. There are no external alterations proposed as part of this application.

2. RECOMMENDATION

2.1 It is recommended that the planning application be refused for the reasons 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 and they are not supportive of the development. Taking the material considerations together it is considered that a departure from the policies of the Adopted East Ayrshire Local Plan and the Approved Ayrshire Joint Structure Plan is not justified as the Glencairn Industrial Estate provides good quality purpose-built industrial units for small businesses. There is a current lack of available good quality industrial accommodation. The proposed use is not considered an acceptable use within an industrial estate.

CONTRARY DECISION NOTE

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 the Development Services Committee because there would be a 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 the 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 contrary to the provisions of the Adopted East Ayrshire Local Plan and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a buff facing brick purpose built industrial unit constructed in the 1980s, within the established Glencairn Industrial Estate. The application site is bound on all elevations by similar light industrial units constructed at the same period and has dedicated parking/delivery bays to the front of the unit

2.2 **Proposed Development:** Full planning permission is sought to change the use of the building from Class 4,5,6 business use to form a weight loss and fitness centre specifically dedicated to women and lying within Class 11 of the Use Classes Order. The applicant has also indicated that 3 vehicle-parking spaces will be provided on-site. There are no external alterations proposed as part of this application.

3. CONSULTATIONS AND ISSUES RAISED.

3.1 East Ayrshire Council's Roads and Transportation Division, Transco, East Ayrshire Council Environmental Health and Waste Management Division and Scottish Water have no adverse comments to make in relation to this application.

Noted.

3.2 The Scottish Environment Protection Agency (SEPA) have not responded to their consultation letter at the time of writing this report.

Noted.

3.3 East Ayrshire Council Economic and Property Division have stated that the proposed change of use of good quality industrial units to other uses is not considered appropriate and the proposed change of use is considered unlikely to contribute significantly to the growth of the local economy or have a significant impact on local employment opportunities.

Noted.

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

4. REPRESENTATIONS RECEIVED

4.1 No letters of representation have been received to the proposed development.

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).

Approved Ayrshire Joint Structure Plan

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:

- 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 the applicant has sought to demonstrate that no other suitable sites exist, basing this primarily on costs, which is not a material consideration in the determination of the application, but also on a range of other factors.

Adopted East Ayrshire Local Plan

5.3 Policies **RTC1**, **RTC5** and **IND 5** are relevant in the consideration of this application.

5.4 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.

5.5 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.

The applicant has provided a supporting statement which is detailed in Section 6 of the report. It advises that the applicant has considered other units within the town centre or on the edge of the town centre for the proposed use. These units were discounted by the applicant as being too expensive or too small. It is considered that the proposed use cannot be accommodated within the above policy as there are alternative units/sites in the immediate area for this type of use. The proposed use is not an acceptable use within a safeguarded industrial area.

5.6 Policy **IND 5** safeguards those established industrial areas, as shown on the local plan maps, for business, industrial and storage and distribution uses. This policy was formulated in order to preserve existing industrial provision in the area, broaden the economic base of the area and minimise

any adverse impact of the industrial and business development on the surrounding area.

The application site is within the Glencairn Industrial Estate, an area safeguarded for business, industrial and storage and distribution by the above policy. The proposed leisure use cannot be accommodated within the above policy and therefore is contrary to Policy IND 5.

6 ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the statutory consultations detailed in Section 3 of the report, the supporting statement submitted by the applicant and NPPG 8 Town Centres and Retailing.

Supporting Statement Submitted by the Applicant

6.2 In support of his application, the applicant has advised that he moved to Scotland in February 2004 and has been searching the Kilmarnock area for adequate premises to start a new business venture. The applicant further states that for his business to succeed he requires premises that meet the following criteria:

- A minimum area of 1800 square feet.
- Open Planned/no restrictions
- Parking
- Accessible by car and public transport
- Within a safe and pleasant environment
- Within budget of £18000 for rent and rates

6.3 The applicant advises that he has established a good working relationship with the Small Business Gateway and the East Ayrshire Council Property Division but the property searches carried out have been unsuccessful as most of the units viewed were retail units that were unaffordable to the applicant or were first-floor units within the town centre which were not sufficient as they were not open plan or of an adequate size.

6.4 The applicant states that the unit at Glencairn Industrial Estate would be suitable in that it is open-plan and of an ideal size, being 1800 square feet in area. The applicant also believes the unit represents value for money, has parking facilities and is a safe and clean environment, with welcoming neighbouring uses such as Sally Hair Products, Door Depot, Floors Direct and the Glencairn Retail Park.

6.5 The applicant believes it is an opportune moment to start a business such as he is proposing due to heart disease, obesity, Osteoporosis, Arthritis, type 2 Diabetes, Depression and Hypertension being prevalent in the area.

The applicant states he has considered other sites within the town-centre or on the edge of the town-centre at King Street, St. Andrews Street, Portland Street and Munro Business Park. However these sites were discounted as being too expensive or too small.

Refer to Section 5 of the report.

Statutory Consultations

6.6 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 that would warrant refusal of this application.

NPPG 8 Town Centres and Retailing

6.7 NPPG 8 advocates the application of the sequential approach to the location of commercial leisure schemes. Where appropriate sites can be found in or on the edge of town centres, these should be the preferred location for leisure uses.

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 and they are not supportive of the development. Taking the material considerations together it is considered that a departure from the policies of the Adopted East Ayrshire Local Plan and the Approved Ayrshire Joint Structure Plan is not justified as the Glencairn Industrial Estate provides good quality purpose-built industrial units for small businesses. There is a current lack of available good quality industrial accommodation. The proposed use is not considered an acceptable use within an industrial estate.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

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 the Development Services Committee because there would be a significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

7 October 2004 (BD/SA)
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.

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

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Block 2, Unit 2
Glencairn Industrial Estate
Bellsland Grove
KILMARNOCK
KA1 4BD

Nature of Proposal: Proposed Change of Use from a Class 4, 5,
6 Business Use to Class 11 Health and
Leisure Weight Loss

Name & Address of Applicant: Mr Hugh Mulgrew
6 Bann Hill
Dromore
COUNTY DOWN
BT25 1SS

Name & Address of Agent:

DPOs Reference: BD/SA

The above FULL application should be REFUSED for the following reasons

(1) The proposed use would be contrary to Policies RTC1 and RTC 5 of the Adopted East Ayrshire Local Plan as it involves a leisure use which could be accommodated elsewhere within a town centre location.

(2) The proposed use would be contrary to Policy IND 5 of the Adopted East Ayrshire Local Plan as it concerns the introduction of a leisure use which would not be acceptable within a safeguarded industrial area and would involve the loss of an existing industrial/business use.

**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.**