

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 02 MAY 2006

**05/1218/FL: PROPOSED CHANGE OF USE OF FROM WOMENS REFUGE TO
SUBSTANCE MISUSE SUPPORT AND REHABILITATION SERVICE
(NON-RESIDENTIAL) WITH OFFICES
AT 30/32 DUNDONALD ROAD, KILMARNOCK
BY TURNING POINT SCOTLAND**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the change of use of the premises to a substance misuse support and rehabilitation service with associated office accommodation. No external alterations are proposed as part of this application. The applicants have submitted a supporting statement giving further details of their operation and proposals for the premises. This is detailed in Section 6.8 of the report.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated at Section 5 of the report the application is considered to be in accordance with the Adopted Local Plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Plan (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. None of the consultation responses have indicated any adverse comments. However, it is considered that the concerns of the objectors are material in relation to the perceived fear of crime and detriment to public health and safety arising from the proposed use, whether founded or

otherwise. Such fears about the proposal would be reinforced on a daily basis by any consent granted and the activity generated in the area by its presence. This would be to the detriment of the residential amenity of the area.

3.3 The application site lies outwith the designated Kilmarnock Town Centre boundary within an established residential area which has very few non residential uses. The non residential uses outwith the town centre boundary on Dundonald Road include Beechwood Nursery and Dundonald Road Medical Practice, both of which have been granted consent prior to the designation of the Kilmarnock Town Centre boundary as indicated in the Adopted East Ayrshire Local Plan.

3.4 Whilst a number of the points of objection are based on each individual objectors judgement of the proposed use and are not based on fact or supported by evidence, it is considered that the widely expressed fear of crime, the health and safety fears surrounding the proposed use and consequently the impact the proposed use would have on the amenity of this largely residential area, are material planning considerations. They outweigh the absence of objections from consultees and the proposal's assessment against the development plan, both of which do not indicate the application should be refused.

3.5 Of further note is Home Office guidance which is directed at Service Providers in England and Wales and which, notwithstanding that it is not a source relative to determination of an application by a Scottish Authority, nevertheless usefully highlights issues that should be taken account of. These issues include:

- Is the property situated in an inappropriate location? (ie close to a school, a playground, or a residential area).
- Is the property easily accessible by public transport?
- Is the proposed use of the property likely to result in a marked rise in vehicular traffic, or numbers of people calling?
- Is the proposed use of the property likely to cause disturbance to neighbours at unreasonable hours?
- Is the property likely to be the cause of other forms of nuisance?
- Is the proposed use of the property likely to involve any activities which are otherwise unusual to that area?

- How will the Drug Treatment centre be perceived by people in the neighbourhood? What can be done to minimise impact and improve relations with the community?

It is considered that a number of the points raised in the Home Office Guidance point to the refusal of the planning application whilst a number of points could not be fully assessed unless the use was to commence on site. However, in context the fears and concerns held by the objectors are outlined in the Home Office Guidance and therefore is a material consideration in the determination of the application.

3.6 In addition, the introduction of a further non residential use within the area of Dundonald Road outwith the town centre boundary would lead to an incremental erosion of the amenity of this largely residential area. In conclusion there is no doubt that the facility with appropriate management arrangements would deliver an important and significant service to the community. On balance it is the location within a predominantly residential area and the perceived fears held by local residents which leads to the conclusion that the application cannot be supported.

Alan Neish
Head of Planning, Development and Building Standard

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 Development Services Committee under the scheme of delegation as it is subject to a significant body of objections, and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the two Victorian two storey blonde sandstone semi detached properties and their curtilage at 30-32 Dundonald Road, Kilmarnock. The building would have originally been utilised as two dwelling houses and was latterly used by Kilmarnock and Loudoun Women's Aid as a refuge from 1981 until the premises were vacated in 2005.

2.2 **Proposed Development:** Full planning permission is sought for the change of use of the premises to a substance misuse support and rehabilitation service with associated office accommodation. No external alterations are proposed as part of this application. The applicants have submitted a supporting statement giving further details of their operation and proposals for the premises. This is detailed in Section 6.8 of the report.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the proposed development and no additional parking provision would be required for the proposed use.

Noted.

3.2 The Grange Howard Community Council objects to the proposed development as the location of the proposed centre is, in their opinion, entirely unsuitable and should not be accommodated within this residential area, particularly due to the close proximity of the Beechwood Nursery.

Noted.

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

Noted.

3.4 East Ayrshire Council's Department of Educational and Social Services and NHS Ayrshire and Arran welcomes the application for safe and accessible substance misuse services.

Noted.

3.5 Strathclyde Police have no objections to the proposals and have commented that they believe the service will not store or administer controlled substances on the premises and therefore the premises are not likely to be more vulnerable to criminal attack. They believe Turning Point offers a similar service as that from Fort Street in Ayr and Cumnock College, and there is no indication that the use of either of these premises has had any significant impact upon the surrounding communities; although it is noted that these premises are not in residential areas.

Noted.

4. REPRESENTATIONS

4.1 There are 1706 objections to the above application one of which is from the Grange/Howard Community Council and is detailed in Section 3.2 of this report. It should be noted that 1426 of the objections (83% of the total received) are from the Kilmarnock area.

4.2 It should also be noted, however, that this Division has received a large volume of calls from the public stating that they have not objected to this development but have received an acknowledgement from this Division in relation to an objection letter written in their name. A significant proportion of

these callers have indicated that they signed a petition in a shop in Kilmarnock (which at the time of writing has never been received by the Division) but have not sent in individual letters objecting to the proposals. As such a total of 108 objections have been removed from the system at the time of writing this report, at the written request of those people who have indicated their names have been used in error as an objector to the application. A summary of the grounds of objection contained in the remaining letters is as follows:-

4.3 They do not want a drugs counselling or needle swap organisation on their doorstep, whilst there are two other needle exchanges in the town; do we need another?

The planning application is for a substance misuse rehabilitation and support service and is not for a needle exchange or methadone clinic. The applicant has also confirmed that no other medication will be administered from or held on the premises.

4.4 The proposed development is contrary to the local plan.

The proposed development is assessed against the policies of the Adopted East Ayrshire Local Plan in Section 5 of the report.

4.5 Break-ins and muggings are mostly perpetrated by individuals feeding a drug habit and they are going to have these types of people in the vicinity at all times of day and night.

No substantive evidence has been received to suggest that there would be an increase in criminal activity in the area arising from this proposal. The applicant has confirmed that the centre will not operate 24 hours per day.

4.6 The proposed development will have an adverse impact on property prices in the vicinity.

The impact of the proposed development on property values is not a material consideration in the determination of this application.

4.7 They are concerned that the proposed sale of the premises by the Council to the applicant seems to indicate the applicant's confidence in gaining planning consent and that by selling the application site and determining a planning application there is a conflict of interest for the Council.

The sale of the premises to the applicant is dependent on planning consent being granted. The actual sale of the premises is entirely separate from the assessment of the planning issues. Should members be minded to grant planning consent the application requires to be referred to the Scottish Ministers under the terms of The Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 as the Council have a financial interest in the application. This process affords the Scottish Ministers the opportunity if they wish to call the application before them for determination.

4.8 As the applicant is a charity they will not require to pay rates meaning the community will lose out financially over the proposals.

The applicants requirement, or otherwise, to pay rates, council tax or any other tax to local/central government is not a material consideration in the determination of the planning application.

4.9 The applicants already have a facility in Portland Road, Kilmarnock and the neighbouring businesses experience continuing problems from the people who attend this centre.

The applicants presently operate from temporary accommodation in Portland Road. The neighbouring business to the applicants current premises has written to this Division indicating they have no problem with the Turning Point presence there and wish to disassociate themselves from the comments made by third parties.

4.10 Dundonald Road is a prestigious residential area and there are surely more appropriate sites within the town in less sensitive residential and commercial areas.

Members are asked to consider the appropriateness of the proposal and location before them and should not take into account alternative sites. The applicant has indicated that they have been trying to find suitable accommodation for over seven months and the application site is suitable because it allows space for a senior manager and administrative support for all their local services, including learning disability, to be based in one location whilst providing ground floor meeting space and a training venue for staff.

4.11 The location of the proposed development immediately adjacent to a well established children's nursery is unacceptable as there are safety concerns for

children attending the nursery, whilst children of nursery age are impressionable and should not have to witness drug users in the vicinity. They fear the nursery would be faced with closure if the proposals went ahead, as parents seek to minimise the risks to their children, resulting in the loss of well used established facility.

The applicant has stated that they have a successful similar use operating within the same building as a children's nursery in Glasgow.

4.12 The proposed use should not be placed in any residential area.

Each application must be assessed on its own merits with regard to the appropriateness of the development and its location.

4.13 The Howard Park/Dundonald Road area is a Victorian conservation area, primarily residential in nature with high quality buildings, which also includes more than one care home for the elderly, a nursery school, professional businesses, doctor's surgery, churches and a public park. Placing such a proposed use in close proximity to these facilities, widely used by the young and old, is wholly inappropriate.

It is considered that the proposed use would be detrimental to the residential amenity of the surrounding area.

4.14 Drug addicts are, at best, a nuisance to other members of society and at worst can be a serious danger to vulnerable members of society.

The objectors' comments are noted.

4.15 There is a carer's cottage in the Howard Park which will be adversely impacted by the proposed development.

See response to 4.13 above.

4.16 St Andrew's Hostel has already made St Andrew's Street a no-go area for Kilmarnock residents and they do not want the situation transferred to Dundonald Road.

St Andrews Hostel is a residential institution for the homeless whereas the proposed development is a non-residential substance misuse support and rehabilitation service which will largely operate

during normal business hours. Any comparisons are therefore misplaced.

4.17 A Council who already faces a large number of businesses and shops re-locating out of Kilmarnock has a duty to improve the town centre not worsen it by granting consent for such an establishment.

The proposed development is not located within the town centre, although the application site is sited in close proximity to the town centre. There is no evidence to suggest that the development would cause a large number of businesses and shops to re-locate out of Kilmarnock.

4.18 There are approximately 355 children involved in St Marnock's Parish Church and many of the organisations which use the church use the Howard Park in the spring/summer months. If approval is given for this use they fear there would be an increased risk to the safety of the children.

The perception of risk or harm to vulnerable members of the community could be considered a material consideration in the determination of the application. Whether these fears can be wholly substantiated or not, they must be taken on board in the determination of the application and in this case the widely expressed concern that clients of the premises may return to forms of behaviour alien to the residential character of the area is a material determining factor.

4.19 The location of the proposals is in close proximity to the Kirklea residential home for the mentally handicapped.

Noted.

4.20 Kilmarnock FC boys clubs train in the Howard Park during the light nights and they wonder how long it will be before they turn their back on the park because of drug users' litter becoming a health hazard in the park. There are also numerous Council run events in the park that parents will no longer take their children to if the park becomes associated with a venue for drug users.

This is a policing issue and is a matter for them to address in association with Council's management and maintenance of the park area.

4.21 The centre will have to support hundreds of drug users from East and South Ayrshire.

The applicants have confirmed their services were commissioned by South and East Ayrshire Councils along with NHS Ayrshire and Arran to provide a community treatment service to substance misusing clients (aged 16 plus). Turning Point Scotland have confirmed that they have premises in Kilmarnock, Cumnock and Ayr town centres and the proposed premises at Dundonald Road will be for people in the Kilmarnock and Loudoun area only.

4.22 The location of the premises in the vicinity of Howard Park will lead to members of the public coming into contact with people selling drugs; drug users; unprotected needle disposal, resulting in an increase in the risk of needle stick injuries for young children, animals and Council cleansing staff; theft; witnessing self harm incidents; begging; robbery; the possibility of children or animals swallowing discarded pills and in an increase in noise and vandalism.

The applicant has confirmed that the proposed development is not for a needle exchange or methadone clinic, however the perception of crime and health and safety fears, founded or otherwise, is a material consideration in the determination of this application. It adds weight to the view that the proposal is inappropriate in this vicinity and detrimental to the residential amenity of the area.

4.23 The assurances given that the facility is not to be used as a needle exchange or for the provision of methadone or other prescriptions will be short lived when you take similar facilities in Glasgow and Stranraer as examples.

The applicant has stated that no medication will be administered or held on the premises and a condition could be attached to any grant of planning permission to prevent these activities.

4.24 Elderly and frail members of the community occupy Howard Court and the security of their homes and personal safety will be at risk if the proposals are approved

This is addressed in Section 4.18.

4.25 Residents living in close proximity to the Turning Point facility at Govan and elsewhere in Glasgow are being terrorised and bullied affecting the safety and overall harmony of these areas.

These comments have been noted.

4.26 They question whether the visitors to the proposed substance misuse and rehabilitation centre will be adequately supervised and whether there will be more police patrols in the area?

The applicant has indicated that they are a national service provider and indicate the service will be professionally run with good staffing levels. They have indicated that their performance and standards are monitored by both South and East Ayrshire Councils and NHS Ayrshire and Arran and also by governing bodies such as the Care Commission. The level of police presence in the area is a matter for Strathclyde Police.

4.27 They are concerned about their well-established business on John Finnie Street and the trouble which could arise from the proposed development.

This is addressed in Section 4.18.

4.28 The proposed rehabilitation service should be within the grounds of a hospital or health centre where CCTV cameras and supervision is available.

Noted.

4.29 They previously lived adjacent to a medical practice and pharmacy in Paisley and have first hand experience of the behaviour of the people they believe will use the proposed centre.

This is addressed in Section 4.18.

4.30 The property should have been sold to a developer; to return it to residential use; who will also pay council tax unlike the applicant.

Members are asked to consider the application which is for a substance misuse support and rehabilitation service with associated office accommodation and not a residential development. The payment of Council Tax is not a material planning consideration.

4.31 The nature of the individuals visiting the facility would represent a serious risk to their care home as the care home holds a variety of drugs which clearly represents a crime risk.

This is addressed in Section 4.18. The comments of Strathclyde Police are also noted.

4.32 They are concerned that no details of alterations, such as disabled access ramps, disabled parking spaces or kitchen flues are shown on the plans and they raise concerns in relation to the poor quality of the plans. Furthermore, there is no indication of parking provision for staff.

The application is for a change of use only and does not propose any external alterations. There is an existing area for car parking at the front of the premises which the applicant has not indicated they intend to alter. The proposals have not resulted in objections from East Ayrshire Council's Roads and Transportation Division. The plans are considered adequate to assess the application.

4.33 The proposed development would do little to encourage people back into living in and around the town centre.

Noted.

4.34 They believe their children will lose their freedom and independence to walk to school as they will have to pass the proposed development.

This is addressed in Section 4.18.

4.35 The proposed development will add to the traffic congestion in this area.

East Ayrshire Council's Roads and Transportation Division has no objections to the proposed development.

4.36 By changing two former residential dwellings into a Women's refuge and now proposed drug rehabilitation service the heart of the residential community is lost as front gardens have become parking areas and the property has fallen into disrepair.

Noted.

4.37 Turning Point do not only deal with drug addicts but also paedophiles.

The applicant has indicated that the proposed substance misuse rehabilitation centre will be used by local people who have substance abuse issues and are stable or stabilising. They indicate the people using the service will be people wishing to move on with

their lives and would be working with Turning Point Scotland of their own choice. Turning Point Scotland have verbally confirmed they do not cater specifically for paedophiles through their services.

4.38 They understand the area is a conservation area and the Winton Place Church buildings and neighbouring buildings are Category A listed buildings and believe the proposed development would be detrimental to this area.

There are no external changes proposed to the building and therefore it is not considered that the proposed change of use will have an adverse impact on the character or appearance of the Conservation Area or adjacent listed buildings. However it is considered that the proposed use would be detrimental to the residential amenity of the adjacent area.

4.39 There are 100 girls aged 4-14 who attend uniformed organisations during the week and 25 young boys and girls on a Sunday at Winton Place Congregational Church and it is difficult enough getting people to attend these organisations on dark nights without the prospect of meeting drug users.

This issue is addressed in Section 4.18.

4.40 Our church hall doors have to be kept locked at the moment when there are people on the premises and security would have to be stepped up even further if this application is granted.

Noted.

4.41 Substance abusers can use hypodermic needles to inject drugs and it is proven that the needles on syringes can carry HIV.

This is addressed in Section 4.22.

4.42 They have been informed that the offices may be sub-let to other groups.

The applicant has indicated that alongside their proposed use they may, if need exists, offer the opportunity for other generic healthcare services to use their facilities to offer their service users the opportunity to access services they may have difficulty accessing normally, for example Well Woman/ Man Clinics or Chiropody.

4.43 They understand that a short-term residential stay unit is available for drug users at the centre and it will be open 24 hours per day, 7 days per week.

The applicant has indicated that the premises will not be used for residential purposes. The proposed use falls within Class 10 of The Use Classes (Scotland) Order 1997 which does not permit residential accommodation within the proposed use. The applicant has also confirmed that the premises would only be open during normal office hours plus one or two evenings until 8 pm. A condition could be attached to any grant of planning consent preventing residential use.

4.44 As Kilmarnock Prison is a stones throw away will the centre be utilised by prisoners on the methadone programme?

The applicant has not indicated that prisoners will use the service but has indicated that the service would be used by local people aged 16 plus from the Kilmarnock and Loudoun area who have substance misuse issues and are stable or stabilising. Their families will also be able to make use of this facility.

4.45 There is already a facility in East Netherton Street; do we really need another so close?

The Bentinck Centre in East Netherton Street is a NHS Ayrshire and Arran facility which provides needle exchange facilities and dispenses methadone. The proposals by Turning Point Scotland would not provide a needle exchange or methadone clinic at the premises.

4.46 There is no specific demand for the types of services planned on the premises within the Dundonald Road area which should be located within a commercial area of the town or nearer its demonstrated client base.

The Council has received no information demonstrating the location of the client base for the services proposed by Turning Point Scotland at Dundonald Road other than the service being for residents in the Kilmarnock and Loudoun area. The location of the application site is approximately 33 metres from the Kilmarnock Town Centre Boundary, as identified by the Adopted East Ayrshire Local Plan, and is, therefore, outwith the designated town centre boundary.

4.47 The Police are unable to attend quickly enough to apprehend anyone when incidents are reported and given this background they should not be seeking to create an environment where criminal activity could increase.

This is addressed in Section 4.18 above.

4.48 Its out of town centre location will add to traffic congestion locally during the day.

The Council's Roads and Transportation Division have no adverse comments to make in relation to the proposed development.

4.49 The proposed use is considered by the Council as Class 10 (non-residential institution) however a proportion of the premises should be considered as a Class 2 (Financial, Professional and other services) use and therefore the proposed development is contrary to the retailing and town centre policies of the Adopted East Ayrshire Local Plan.

The proposed use is considered to be a Class 10 (Non-Residential Institution) Use and the proposed office accommodation within the premises is ancillary to the proposed main use of the premises as substance misuse support and rehabilitation service. It is, therefore, not considered that the application requires to be assessed against the relevant Retailing and town centre policies of The Adopted East Ayrshire Local Plan.

4.50 The application is incompatible with Policies RES 7 and ENV 4 of the Adopted Local Plan and E20 of the Approved Ayrshire Joint Structure Plan.

Noted. The application is not for a proposed residential use and has not been assessed against Policy RES 7. Policy ENV 4 of the EALP and E20 of the Ayrshire Joint Structure Plan relates to development affecting the setting or appearance of a Conservation Area or Listed Building. As no external alterations are proposed as part of this application it is not considered relevant to assess this application against Policies ENV4 and E20

4.51 The proposed development is contrary to Policies RTC 12; SD5; SD7 and SD8 of the Adopted Local Plan.

The application has been considered against Policy SD7 at Section 5 below. It is not considered that Policy RTC12, which relates to development within an identified area surrounding the Palace Theatre, or Policies SD5 or SD8, which relate to development at transport nodes and a future development strategy for Kilmarnock, are directly relevant in the determination of this application.

4.52 There is no mention of a need for this centre in the East Ayrshire Community Plan. It is considered that community involvement is a key theme of the Community Plan and it is considered that the views of the local people are that the proposals are not appropriate nor in a suitable location. The Community Plan states that East Ayrshire Council are committed to creating safe places in which to live, work and play, by improving public safety and improving safety in neighbourhoods and homes.

The East Ayrshire Community Plan is developed with a number of public sector and community stakeholders and indeed does not mention specific projects such as the proposed development within specific areas. The plan is, however, an overarching strategic document and it is appropriate that the merits of this proposal be considered against the terms of the local plan and having regard to other material considerations.

4.53 The proposals should be located in more convenient and appropriate premises and they note that Turning Point Scotland have a facility based in Caponacre Industrial Estate in Cumnock.

Turning Point Scotland have temporary premises within Cumnock College which they will leave in mid-April 2006.

4.54 They question elected members who approved the sale of the premises being allowed to participate in the determination of a planning application.

The sale of the premises is totally separate and has no bearing on the planning process and therefore is not a material consideration in the determination of this planning application.

4.55 Some of the residents at Howard Court did not receive neighbour notification although they should have done and some neighbours did not get the full 14 days to object.

The applicant appears to have missed Numbers 2 and 3 Howard Court from the neighbour notification process although has indicated this was rectified on 23 November 2005. A public advert was placed in the Kilmarnock Standard on 08 December 2005 providing a further period for public representation. The fact that a letter has been submitted on behalf of Howard Court Residents Association does indicate that the residents have had an opportunity to raise their concerns to this Division in the determination of this application.

4.56 They believe that Turning Point was the highest bidder for the premises but believe the nature of the proposed use should have been investigated prior to an offer being accepted.

This is addressed in Section 4.54 above.

4.57 The submitted details are not a true or fair representation of the alterations required for the new use and are therefore contrary to Appendix B Section 0.0.4 of the Memorandum of Guidance on Listed Buildings and Conservation Areas, page 7 of the PAN71, RTPI good practice guidelines, and East Ayrshire Council's own guidance.

This section of the Memorandum of Guidance on Listed Buildings and Conservation Areas is "for general use by planning authorities in their consideration of applications for conservation area consent and for listed building consent". The proposed application is for a change of use only and is not an application for Conservation Area Consent or Listed Building Consent. With regard to PAN 71, Conservation Area Management and the RTPI's guidance it should be noted that the application is for full planning consent and is not in outline. Furthermore as the proposals do not include any external alterations to the premises the plans submitted are considered acceptable by this Division for the purposes of determining this change of use planning application.

4.58 Based upon the details provided by the applicants, their Draft Service Specification, and national drugs abuse statistics it is clear that a proportion of users of the proposed facility will be involved in ongoing drug use or prescription replacement programmes during treatment. Relapse rates are high, and a significant proportion of those involved in drugs also have problems with alcohol and mental health.

The applicant has confirmed that their service is for a Community Treatment Service to substance misusing clients (aged 16 plus) who are stable or approaching stability. They indicate that people using the service will be people wishing to move on with their lives and would be working with Turning Point Scotland of their own choice.

4.59 Although there appears to be no Scottish policies or guidance addressing the siting of substance misuse centres, the Home Office *Guidance on making a*

Planning Application in Relation to a Drugs Service specifically identifies schools, playgrounds, and residential areas as being an inappropriate area for a centre.

It is considered that the proposed development will have an adverse impact on the residential amenity of the surrounding area.

4.60 The proposed centre is broadly comparable to a clinic and office development. It will result in a markedly different pattern of use from that existing and the surrounding residential properties. There will be increased footfall, intensification of use, an extension of operating hours to include evenings, and letting of the facilities to third party organisations for meetings.

Noted. The applicant has verbally stated that the premises would not be utilised beyond 8.00 pm and would only be utilised until this time for a maximum of two evenings per week to provide support services for clients who are working during normal office hours.

4.61 The availability of alternative or better sites is a material consideration. Such sites exist within the central Kilmarnock area, particularly within John Finnie Street where there is a surfeit of vacant and underused property, and do not present the concerns regarding the amenity of adjacent premises.

The applicant has advised that they have been trying to find suitable premises for the seven months prior to the submission of this application. Members are asked to consider the appropriateness of the proposal and location before them and should not take into account alternative sites.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Ayrshire Joint Structure Plan

5.2 There are no specific policies within the AJSP directly relevant to the determination of this application.

Adopted East Ayrshire Local Plan

5.3 Policies CS1 and SD7 of the Adopted EALP are specifically relevant in the consideration of this application.

5.4 Policy CS1 states that the Council will respond positively to changing needs and demands for community and educational facilities throughout East Ayrshire. Wherever possible, existing facilities will be retained and improved and support and encouragement will be given to all other community facility and public service organisations to maintain and improve the services they provide.

The proposal is considered to be associated with a community facility and therefore is supported by Policy CS1.

5.5 Policy SD7 positively supports, encourages and promotes the sympathetic upgrading, re-use and conversion of existing properties, both within the area settlements and throughout the rural area, in preference to the construction of new build properties.

The proposal accords with Policy SD7 as it will re-use an existing property within Kilmarnock.

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 applicants supporting statement.

Consultations

6.2 The consultations are detailed in Section 3 above and do not raise any adverse comments that would warrant refusal of this application.

Representations

6.3 The concerns of the objectors are noted and whilst some points are not material planning considerations, other comments are considered material. It is clear that crime is an issue for Strathclyde Police to deal with. However, the fear of crime or perceived fear of crime by objectors is a material consideration in the determination of this planning application. Such fear would be reinforced by the presence of the establishment and those making use of its services and there consequently would be an adverse impact on the amenity of the locality. Dundonald Road is a largely residential area with currently only two non-residential uses situated outwith the town centre boundary as identified in the Adopted East Ayrshire Local Plan. Both these uses, Beechwood Nursery and The Dundonald Road Medical Practice are long standing uses and are considered as complementary non-residential uses which have brought benefit to a large section of the immediate population.

6.4 The comments of the objectors relative to the amenity of the area are considered material. The fears and concerns outlined by a large number of objectors, of which approximately 83% are Kilmarnock residents, demonstrate the strength of feeling on the issues surrounding the proposed use of the premises. Whilst objectors' concerns relative to crime are for Strathclyde Police to enforce and monitor it is considered that the concerns of a large section of the community are material and that the operation of the use proposed and its utilisation by its clients on a regular basis would diminish the residential amenity of the area.

6.5 It is considered that the applicants' supporting Statement addresses a number of the concerns raised by objectors. Nevertheless the fear of perceived crime and health and safety concerns are material considerations in the determination of this application due to the impact those perceptions, founded or otherwise, would have on the amenity of the locality.

6.6 Despite the building's previous use as a refuge for Kilmarnock and Loudoun Women's Aid, that use, as a temporary home for women and often also their children, was largely compatible with the residential character of the locality. The previous use and other non-residential uses such as the Dundonald Road Medical Practice and Beechwood Nursery were granted consent prior to the adoption of the East Ayrshire Local Plan and the designation of the current Kilmarnock Town Centre boundary. It is therefore considered that the representations both in their weight and in their content do correctly anticipate that the proposed use would have a detrimental impact on the residential character of Dundonald Road. Although the proposals lie close to the designated Town Centre boundary of Kilmarnock, as identified in the Adopted

East Ayrshire Local Plan, it is considered that such a non-residential use would diminish the residential nature of Dundonald Road.

Planning History

6.7 Planning Application No. KL/W/81/194; proposed change of use from residential to refuge for women who have suffered mental and physical harassment was approved by Kilmarnock and Loudoun District Council Planning Committee on 29 October 1981. The building was used by Kilmarnock and Loudoun Women's Aid until it was vacated in 2005.

Supporting Statement Submitted by Applicant

6.8 Turning Point Scotland have submitted a Supporting Statement in relation to their application and have commented as follows:

The applicant states that the service will be used by local people (aged 16 plus) from the Kilmarnock and Loudoun area who have substance misuse issues and who are stable or stabilising. The service can also be used by their families. They argue that the people using the service wish to move on with their life and they are working with the applicant of their own choice.

They indicate the proposed use is not for residential purposes and the service will adopt normal business opening hours plus one or two evenings till 8 pm. These evenings are to offer appointments to clients who are working or attending college or university, or for a family group who cannot attend during the day due to work commitments.

The applicant further advises that the property will not be used for a needle exchange nor will the premises hold or administer any medication.

The applicant has indicated that the Drugs Crisis Centre in Glasgow is just one of the services they provide to Local Authorities across Scotland, based on the needs of each area. The applicant has indicated that the service proposed at Dundonald Road bears no resemblance to the Glasgow Drugs Crisis Centre in terms of provision, function or service user numbers.

The applicant has confirmed that their service is already located in the community, at temporary accommodation in Portland Road, Kilmarnock, without incident and have confirmed the services proposed from Dundonald Road will include individual counselling, group work, alternative therapies and life skills for client's wanting to move forward. They also indicate that they can look at coping skills, bereavement issues, building family relationships, and accessing

education or training. The service is aimed at a broad range of needs, from helping someone who started taking drugs due to childhood trauma through to bringing a family together to cook and eat a meal in a warm and supportive environment.

The applicant has confirmed that they operate substance misuse services throughout the country in residential areas, colleges, business centres and also in a railway station.

The applicant's claim that the service proposed is for clients in the Kilmarnock and Loudoun area only as they already have bases in Ayr and Cumnock. They have indicated that the service provided to their client's has been provided by East Ayrshire Council and NHS Ayrshire and Arran for many years and the service will be professionally run with good staffing levels. The staff at the centre will be qualified and experienced. They indicate that their performance and standards are monitored by East and South Ayrshire, NHS Ayrshire and Arran and the Care Commission.

Turning Point Scotland have indicated that they operate a similar service in a building in Glasgow which is also occupied by a nursery, and they indicate that they will ensure all service users are aware of the need to respect the premises and the surrounding area.

The applicant has also confirmed that the proposed location was chosen due to the fact they require premises large enough to allow a Service Manager and administrative support for all of their local services, including Learning Disabilities, to be based. They state the property in Dundonald Road is ideal for their needs as it has ground floor accommodation to provide meeting space for disabled staff, service users and provides enough space to provide a quality service base in a warm, safe and welcoming environment which is centrally located.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Members are advised that if they are minded to approve this application it would require to be notified to the Scottish Ministers under the Town and Country Planning (Notification of Applications)(Scotland Direction 1997 as it is subject to a substantial body of objections.

8. CONCLUSIONS

8.1 As indicated at Section 5 of the report the application is considered to be in accordance with the Adopted Local Plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Plan (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. None of the consultation responses have indicated any adverse comments. However, it is considered that the concerns of the objectors are material in relation to the perceived fear of crime and detriment to public health and safety arising from the proposed use, whether founded or otherwise. Such fears about the proposal would be reinforced on a daily basis by any consent granted and the activity generated in the area by its presence. This would be to the detriment of the residential amenity of the area.

8.3 The application site lies outwith the designated Kilmarnock Town Centre boundary within an established residential area which has very few non residential uses. The non residential uses outwith the town centre boundary on Dundonald Road include Beechwood Nursery and Dundonald Road Medical Practice, both of which have been granted consent prior to the designation of the Kilmarnock Town Centre boundary as indicated in the Adopted East Ayrshire Local Plan.

8.4 Whilst a number of the points of objection are based on each individual objectors judgement of the proposed use and are not based on fact or supported by evidence, it is considered that the widely expressed fear of crime, the health and safety fears surrounding the proposed use and consequently the impact the proposed use would have on the amenity of this largely residential area, are material planning considerations. They outweigh the absence of objections from consultees and the proposal's assessment against the development plan, both of which do not indicate the application should be refused.

8.5 Of further note is Home Office guidance which is directed at Service Providers in England and Wales and which, notwithstanding that it is not a source relative to determination of an application by a Scottish Authority, nevertheless usefully highlights issues that should be taken account of. These issues include:

- Is the property situated in an inappropriate location? (ie close to a school, a playground, or a residential area).

- Is the property easily accessible by public transport?
- Is the proposed use of the property likely to result in a marked rise in vehicular traffic, or numbers of people calling?
- Is the proposed use of the property likely to result in a marked rise in vehicular traffic, or numbers of people calling?
- Is the proposed use of the property likely to cause disturbance to neighbours at unreasonable hours?
- Is the property likely to be the cause of other forms of nuisance?
- Is the proposed use of the property likely to involve any activities which are otherwise unusual to that area?
- How will the Drug Treatment centre be perceived by people in the neighbourhood? What can be done to minimise impact and improve relations with the community?

It is considered that a number of the points raised in the Home Office Guidance point to the refusal of the planning application whilst a number of points could not be fully assessed unless the use was to commence on site. However, in context the fears and concerns held by the objectors are outlined in the Home Office Guidance and therefore is a material consideration in the determination of the application.

8.6 In addition, the introduction of a further non residential use within the area of Dundonald Road outwith the town centre boundary would lead to an incremental erosion of the amenity of this largely residential area. In conclusion there is no doubt that the facility with appropriate management arrangements would deliver an important and significant service to the community. On balance it is the location within a predominantly residential area and the perceived fears held by local residents which leads to the conclusion that the application cannot be supported.

9. RECOMMENDATION

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

Alan Neish
Head of Planning, Development and Building Standards

24 April 2006
(BD/MMM/SA)

FV/AN

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. Planning Application No: KL/W/81/194

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

Implementation Officer: Alan Neish

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/1218/FL

Site of Proposal: 30/32 Dundonald Road
KILMARNOCK
KA1 1RX

Nature of Proposal: Proposed Change of Use from Women's
Refuge to a Substance Misuse Support and
Rehabilitation Service (Non Residential) with
Offices

Name & Address of Applicant: Turning Point Scotland
54 Govan Road
GLASGOW
G51 1JL

Name & Address of Agent:

DPOs Reference: BD/MMM

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

1. The proposed use would be detrimental to the residential amenity of the Dundonald Road area by reason of its introduction of a use and activity inappropriate in a residential area.
2. The use of the building and the activity which it would generate will diminish the residential amenity of the area both in their own right and through the perception that they will introduce forms of behaviour alien to the residential character of Dundonald Road.
3. The proposed use would lead to the erosion of the residential character of the surrounding area.

**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.**

Please also read notes overleaf

PLANNING HEARING - PROCEDURE



PRIOR TO COMMENCEMENT OF THE HEARING THE ADMINISTRATION MANAGER OR REPRESENTATIVE WILL SEEK CONFIRMATION THAT THE HEARING PROCEDURE IS UNDERSTOOD BY THE PARTICIPANTS.

HEARING BEGINS

- 1. THE HEAD OF PLANNING AND BUILDING CONTROL OR REPRESENTATIVE WILL GIVE DETAILS OF THE APPLICATION.**
- 2. THE OBJECTORS AND/OR THEIR AGENTS WILL PRESENT THEIR OBJECTIONS TO COMMITTEE IN SUPPORT OF THEIR WRITTEN OBJECTION(S), IN THE ORDER DETERMINED BY THE CHAIR OF THE COMMITTEE. EACH OBJECTOR WILL NORMALLY BE GIVEN 5 MINUTES AND, IN CASES WHERE THERE ARE SEVERAL OBJECTORS IN EXCESS OF SIX OBJECTORS, PARTIES ARE ASKED TO COLLECTIVELY SPEAK UP TO A MAXIMUM TOTAL OF 30 MINUTES OR SUCH OTHER PERIOD AS THE COMMITTEE MAY AGREE.**
- 3. MEMBERS OF THE COMMITTEE MAY ASK QUESTIONS OF THE OBJECTOR(S) ON SUBMISSIONS MADE.**

This is not to be taken as an opportunity to comment on the merits or otherwise of the planning application.

- 4. THE APPLICANT AND/OR THEIR AGENTS WILL SPEAK FOR A MAXIMUM TOTAL OF 15 MINUTES OR SUCH OTHER PERIOD AS THE COMMITTEE MAY AGREE.**
- 5. MEMBERS OF THE COMMITTEE MAY ASK QUESTIONS OF THE APPLICANT(S) ON SUBMISSIONS MADE.**

This is not to be taken as an opportunity to comment on the merits or otherwise of the planning application.

HEARING CLOSES

All parties will be asked to withdraw to the Public Gallery and the Committee will consider the application.

- 6. AT THIS STAGE THE HEAD OF PLANNING AND BUILDING CONTROL OR REPRESENTATIVE WILL ADDRESS THE COMMITTEE AND GIVE APPROPRIATE CLARIFICATION ON ANY ISSUES RAISED DURING THE HEARING.**

COMMITTEE DECISION

- 7. COMMITTEE DISCUSSION, MOTIONS AND DECISION.**
- 8. THE ADMINISTRATION MANAGER OR REPRESENTATIVE WILL REPORT THE DECISION OF THE COMMITTEE TO THOSE PRESENT.**

NOTES

- (1)** THE OPPORTUNITY TO ADDRESS THE COMMITTEE WILL ONLY BE EXTENDED TO THE APPLICANT WHEN AN OBJECTOR HAS ADDRESSED THE COMMITTEE.
- (2)** PLEASE MAKE SURE YOUR NAME IS RECORDED BY THE ADMINISTRATIVE OFFICER(S) PRESENT.
- (3)** WHEN YOU ARE CALLED TO SPEAK, PLEASE MOVE TO THE TABLE MARKED EITHER OBJECTOR OR APPLICANT. IF YOU ARE AN OBJECTOR, UNLESS OTHERWISE ADVISED, AFTER YOU HAVE SPOKEN PLEASE RETURN TO YOUR SEAT IN THE PUBLIC GALLERY.
- (4)** PLEASE PRESENT YOUR POINTS WITHIN THE AGREED TIME LIMITS, WHICH ARE TO ENSURE ALL PARTIES INVOLVED ARE GIVEN AN OPPORTUNITY TO PRESENT THEIR CASE.
- (5)** IN YOUR ADDRESS, PLEASE AVOID REPEATING POINTS MADE IN EARLIER SUBMISSIONS. YOU CAN INDICATE SUPPORT FOR EARLIER COMMENTS AND CONCENTRATE ON ANY NEW POINTS.
- (6)** OBJECTORS AND APPLICANTS CAN APPOINT A SPOKESPERSON.
- (7)** THE CHAIR SHALL DIRECT THE HEARING PROCESS IN ACCORDANCE WITH THE HEARING PROCEDURE NOTE (OVERLEAF).

APPROVED: DEVELOPMENT SERVICES COMMITTEE - 25/6/03