

EAST AYRSHIRE COUNCIL

**NORTHERN AREA LOCAL PLANNING COMMITTEE:
17 MARCH 2006**

**05/1162/FL: PART CHANGE OF USE OF COFFEE SHOP TO FORM HOT
FOOD TAKEAWAY AND ALTERATIONS TO SHOPFRONT
(RETROSPECTIVE)
AT 25 BRIDGE STREET, GALSTON, KA4 8AE
BY KERIM EYGI**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant seeks retrospective planning permission for part change of use of the premises as a coffee shop to incorporate a hot food takeaway and alterations to the shop front of the building. The applicant has indicated that the proposed hours of operation for the coffee shop and takeaway are Monday to Friday 8am to 11pm, Saturday 10am to 11pm and 12 noon to 11pm on a Sunday. The alterations to the shopfront consist of the cladding of the external façade of the shopfront in black tiles and the painting of the window frames and entrance doors green.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

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 as that would not be a significant departure from 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, due to the fact that objections have been submitted in respect to the application.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is an unlisted commercial premise located within Galston town centre and the Galston Outstanding Conservation Area. The property abuts the pavement on Bridge Street. The site is adjoined by commercial properties on the ground floor to the east and west and flatted dwellings above.

2.2 **Proposed Development:** The applicant seeks retrospective planning permission for part change of use of the premises as a coffee shop to incorporate a hot food takeaway and alterations to the shop front of the building. The applicant has indicated that the proposed hours of operation for the coffee shop and takeaway are Monday to Friday 8am to 11pm, Saturday 10am to 11pm and 12 noon to 11pm on a Sunday. The alterations to the shopfront consist of the cladding of the external façade of the shopfront in black tiles and the painting of the window frames and entrance doors green.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have no objections to the application, as the proposal is retrospective.

Noted.

3.2 East Ayrshire Council Environmental Health Division have raised no objections in principle to the proposed development subject to suitable ventilation being provided to take fumes clear of nearby residential properties. These will require to be located in such a way that it does not cause nuisance. The Division is aware of complaints regarding extended hours of opening and the prospect of general disturbance, however the Division advises that the premises can remain open until 11pm before any late hours special catering licence need be applied for.

The applicants have removed the external flue that was erected without planning permission. The comments in respect of operating hours are noted.

3.3 Historic Scotland has not offered any comments in respect of the application.

Noted.

3.4 Scottish Civic Trust have offered no comments on the application.

Noted.

3.5 The Architectural Heritage Society of Scotland have not offered any comments in respect of the application.

Noted.

3.6 Galston Community Council have objected to the application on the grounds that the change of use will add to the litter problem and the siting of rubbish bins from this establishment.

In respect of the bins, a condition can be imposed on any planning consent requiring the bins to be stored to the rear of the premise, with an exception for bin collection times, to minimise visual impact.

4. REPRESENTATIONS

In addition to the objection raised from Galston Community Council as outlined above, two additional letters of objection have been received and their grounds for objection are summarised as follows;

4.1 Abusive language, shouting, harassment and threatening behaviour from youths who visit the premises and congregate inside and outside the premises.

Abusive behaviour and the congregation of youths is not a material planning consideration and is a matter that could be referred to the police.

4.2 Food and bottles have been thrown over the gate, into the pend adjacent to the building.

This is the responsibility of the applicant to monitor and is a matter that could be referred to the Police should it amount to a public nuisance.

4.3 Cars are parking across pend access/drive way and within close proximity of the new traffic lights, therefore causing an obstruction for oncoming vehicles and noise disturbance when loud music is played from the cars.

As detailed in section 3.1 the Council's Roads and Transportation Division have no objections to the application. Illegal parking is not a material planning consideration and is a matter that should be directed to the police.

4.4 The windows are visually prominent, due to their colour and the installation of neon lights around the inside of the window frames.

It is not considered that the style and colour of the windows detract from the appearance of the building or Conservation Area when viewed in the context of the adjoining properties. The internal lights do not require planning permission.

4.5 The signage installed encroaches on the flatted dwelling above the application property.

The signage is not the subject of the current application and any encroachment by signage on part of the building which is claimed to be outwith the ownership of the applicant is a private legal matter. In the event of a consent being granted for this use, a further separate advertisement permission would have to be sought for the signage.

4.6 The moving of tables after closing time and the slamming of doors is creating a noise disturbance to the flatted dwelling above the premises.

Any excessive noise disturbance is a matter that should be referred to the Council's Environmental Health Division and the police. Whilst such activity might be anticipated in relation to such an establishment, the use of the premises can be limited by condition to hours consistent with a commercial property in the town centre.

4.7 The loud music played in the premises has ceased after the applicant was advised that he had no licence from the performing rights society to broadcast/play music in the premises.

Noted.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

5.2 There are no specific policies contained within the Ayrshire Joint Structure Plan that are considered relevant to the assessment of this application.

East Ayrshire Local Plan

5.3 Policy RTC2 states that the types of development detailed in Schedule 5 of the Local Plan will be considered acceptable, in principle within town centres and on those development opportunity sites identified as being suitable for such purposes on the Local Plan maps.

The proposed development is considered to comply with this policy as the application site is located within the Galston town centre boundary and hot food takeaways are identified in Schedule 5 as an acceptable town centre use.

5.4 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. The policy also states that development proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area or have due regard to the architectural and historic qualities of the area or building concerned.

It is considered that the works already undertaken to the shop frontage of the building in terms of installation of replacement windows, painting of the external doors and the cladding of the exterior of the building in black tiles are similar to the shop fronts of the adjoining buildings and thus do not materially detract from the

character or appearance of the Galston Outstanding Conservation Area.

5.5 Policy ENV7 requires developers to comply with the Council's Design Guidance and Policy Documents. The Council's Design Guidance 4 'Listed Buildings and Buildings within the Conservation Areas' states that "Alterations to shop fronts within Conservation Areas and those forming part of a listed building will require:-

(a) to be carried out in traditional materials, compatible in design, colour and texture with the character and appearance of the Conservation Area or the building itself.

(b) to incorporate stall risers and fascia boards which take account of the height and design of those on any adjacent properties. Any existing stall risers, fascia boards, pilasters and architectural features which are considered to contribute positively to the character and appearance of the listed building or Conservation Area should be retained and incorporated into the new shop front or fascia design, wherever possible.

As detailed in section 5.4 it is considered that the retrospective works to the shop frontage are similar to the style of shop fronts and materials used on shop fronts on the adjacent buildings on Bridge Street. Therefore it is considered that the works do not detract from the character and appearance of the Galston Outstanding Conservation Area.

In conclusion, it is considered that the proposal is in accordance with the provisions of the Development Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received, the planning history and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

Representations

6.3 The representation received has been summarised in Section 4 of the Report and is not considered to be of such weight as to merit refusal of the application.

Impact on the amenity of the area

6.4 The retrospective works to the shop frontage of the premise are not considered to materially detract from the character of the Galston Outstanding Conservation Area and the part change of use of the premises is considered an acceptable ancillary use to the coffee shop use of the premises, subject to adherence to the planning conditions proposed.

Planning History

6.5 A planning application (05/0130/FL) for proposed new windows and alterations to frontage was withdrawn on 28 April 2005.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council arising from this application.

8. CONCLUSIONS

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated 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 as that would not be a significant departure from Council policy.

Alan Neish

Head of Planning, Development and Building Standards

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Previous planning application 05/0103/FL

Implementation Officer: Dave Morris

**Anyone wishing to inspect the above papers please contact Gillian Craig,
Senior Planning Officer on 01563 576769.**

GC/IMB

7 March 2006

FV/DVM

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/1162/FL

Site of Proposal:	25 Bridge Street, Galston, KA4 8AE
Nature of Proposal:	Part Change of Use of Coffee Shop to form Hot Food Takeaway and Alterations to Shopfront (Retrospective)
Name & Address of Applicant:	Mr Kerim Eygi 16 Lochlea Avenue Troon KA10 7BN
Name & Address of Agent:	N/A

DPOs Reference: GC/IMB

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

1. The use hereby approved shall only operate between 08.00 hrs. and 23.00 hrs. each day, Monday to Friday, 10.00 hrs. and 23.00 hrs. on Saturdays and 12.00 hrs. to 23.00 hrs. on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise in this town centre location have subsided, in the interest of residential amenity.

2. All refuse bins associated with the premises shall be stored to the rear of the building with the exception of during refuse collection times.

REASON In the interest of visual amenity.

3. Notwithstanding the plans hereby approved and prior to the authorised use commencing, details of any fume extraction method shall be submitted to the

planning authority for prior written approval; or determination as to whether any ventilation flue will require the further express permission of the Planning Authority.

REASON In the interest of visual and residential amenity and to ensure that the applicant is advised whether any flue would require a separate planning application.

**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.**