

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 27 OCTOBER 2006**

**06/0720/FL: CHANGE OF USE TO FORM HOT FOOD TAKEAWAY AND  
INSTALLATION OF NEW EXTRACT FLUE  
AT 4 – 6 MAIN STREET, STEWARTON  
BY SMILE VIDEO ENTERTAINMENT**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The applicant seeks planning permission for the change of use of the premises, currently used as a hardware store, to incorporate a hot food takeaway and install a new extract flue on the rear elevation of the building. The applicant has indicated that the proposed hours of operation for the hot food takeaway are Monday to Sunday from 4pm until 11pm.

**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 comprises commercial premises, currently occupied by a hardware store located within Stewarton town centre nearby to Stewarton Cross. The application site abuts the pavement on Main Street and is adjoined by commercial properties on the ground floor to the east and the west, and by a vehicular access from Rigg Street, to the rear of the site. A residential flatted property is located directly above the application site.

2.2 **Proposed Development:** The applicant seeks planning permission for the change of use of the premises, currently used as a hardware store, to incorporate a hot food takeaway and install a new extract flue on the rear elevation of the building. The applicant has indicated that the proposed hours of operation for the hot food takeaway are Monday to Sunday from 4pm until 11pm.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have raised no objections to the application in principle subject to the applicant contacting the Council's Roads and Transportation Division with regards to traffic management at the location.

***A note can be attached to any planning consent advising the applicant to contact East Ayrshire Council's Roads Division to discuss traffic management at this location.***

3.2 East Ayrshire Council's 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. This 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 11.00 pm before any late hours special catering licence need be applied for.

***The comments in respect of operating hours are noted.***

3.3 Scottish Water has not offered any objection in respect of the application.

***Noted.***

3.4 Stewarton and District Community Council have objected to the application on the grounds that there are already several hot food take away shops in this area and that locating a hot food takeaway shop immediately adjacent to a funeral parlour is an unacceptable location for such an outlet. The takeaway shop in its proposed location can only encourage more on-street parking where double yellow lines exist and the traffic control lights at The Cross are barely a few yards away.

***Development proposals for the sale of food and drink are considered to be acceptable uses, in principle, within town centre areas. Considering that this proposed development is located close to The Cross within Stewarton town centre, the proposed hot food takeaway is an acceptable town centre use and is considered to be compatible with the adjacent existing uses which are also acceptable town centre uses. With regard to the issue of on street parking there are currently double yellow lines marked on the road adjacent to the application site thereby restricting parking on the road at this location. Illegal parking is not a material planning consideration and is a matter that should be directed to the police. Whilst the Council's Roads and Transportation Division has raised no objections to the proposal, the applicant will require to contact the Council's Roads and Transportation Division with regards to traffic management at this location.***

#### 4. REPRESENTATIONS

4.1 The application was advertised on 24 August 2006 in the Kilmarnock Standard under Article 12(5) of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992. In addition to the objection raised from Stewarton and District Community Council as outlined above, one additional letter of objection has been received and the grounds for objection are summarised as follows;

4.2 The applicant's location plans denotes that he owns the area of ground shown as the entrance to the rear of his shop, whilst I own this area of ground

***The applicant has confirmed that he owns all of the shop premises and that he has owner notified the owners of the flat located directly above the application site. In addition, the applicant has confirmed that the area of land located between 4 and 6/8 Rigg Street is in common ownership and does not form part of the application site.***

#### 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 Stewarton town centre boundary and hot food takeaways are identified in Schedule 5 of the East Ayrshire Local Plan as an acceptable town centre use.***

5.4 Policy RTC3 states that subject to the provision of all other retail policies,

all development proposals falling within the classes of development detailed in Schedule 5 of the Local Plan will be directed to:

- (i) Kilmarnock and Cumnock Town Centres if the proposed gross floorspace exceeds 1,500m<sup>2</sup> ; and
- (ii) All Town Centres if the proposed gross floorspace is less than 1,500m<sup>2</sup>.

***The development proposal is located within Stewarton Town Centre and provides a floor space of less than 1500m<sup>2</sup> and falls within the classes of development detailed in Schedule 5 of the Local Plan. Consequently the proposal complies with Policy RTC3 of the Local Plan.***

5.5 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 letters of representation 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 representations received have been summarised in Section 4 of the Report and are not considered to be of such weight as to merit refusal of the application.

### Impact on the Amenity of the Area

6.4 The proposal is to be located within the defined town centre area of Stewarton, which is identified as an appropriate location for a hot food takeaway. The proposal is not considered to materially detract from the character of Stewarton town centre and will not adversely affect the amenity of the area.

### Planning History

6.5 A planning application (03/0103/AD) for a proposed illuminated sign was withdrawn by the applicant on 24 June 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**

18 October 2006  
(JL/MMM)

FV/DVM

## 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. Planning Application 03/0103/AD.

Anyone wishing to inspect the above papers please contact Jane Little, Planning Officer, on 01563 576768.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0597/FL

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Site of Proposal: 4 – 6 Main Street  
STEWARTON  
KA3 5AE

Nature of Proposal: Change of Use to Form Hot Food Takeaway  
and Installation of New Extract Flue

Name & Address of Applicant: Smile Video Entertainment  
4 – 6 Main Street  
Stewarton  
KA3 5AE

Name & Address of Agent: Daly Planning & Design  
58 Gartmore Road  
Paisley  
PA1 3NQ

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DPOs Reference: JL/MMM

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

1. The use hereby approved shall only operate between 08:00 hours and 23:00 hours each day, Monday to Sunday.

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 in the area indicated on amended drawings 00A and 00B with the exception of during refuse collection times.

REASON In the interests of visual amenity.

## NOTES TO APPLICANT

1. The applicant shall contact the Council's Roads and Transportation Division (Tel 01563 576358) with regards to traffic management proposals at the application site.
2. No building materials shall be stored on the public footway.
3. All appropriate permits for the road occupation shall be obtained from the Council's Roads and Transportation Division.

**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.**