

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 27 OCTOBER 2006

**06/0597/FL: CHANGE OF USE TO FORM HOT FOOD TAKEAWAY AND
ALTERATIONS TO SHOPFRONT
AT 4 RIGG STREET, STEWARTON
BY MR MCCULLOCH**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant seeks planning permission for the change of use of the premises, currently used as storage for the adjacent chip 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 hot food takeaway are Monday to Sunday from 4pm until 11pm. The alterations to the shop front consist of the installation of a doorway and window and the formation of a fascia sign board located above the doorway and window.

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 vacant, located within Stewarton town centre nearby to Stewarton Cross. The property abuts the pavement on Rigg Street and is adjoined by commercial properties on the ground floor to the south east, and by a vehicular access to the north west. The entrance to Somerfield supermarket is located across Rigg Street opposite the application site. The rear of the application site forms the access to the properties located at 4-6 Main Street in Stewarton.

2.2 **Proposed Development:** The applicant seeks planning permission for the change of use of the premises, currently used as storage for the adjacent chip 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 hot food takeaway are Monday to Sunday from 4pm until 11pm. The alterations to the shopfront consist of the installation of a doorway and window and the formation of a fascia sign board located above the doorway and window.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the application.

Noted.

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 11pm before any late hours special catering licence need be applied for.

The comments in respect of operating hours are noted and are covered by the imposition of a condition.

3.3 Scotland Gas Networks 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. The application site is close to the traffic lights at The Cross in Stewarton and such a shop will only encourage drivers to stop on the road outside the shop thereby contributing to a possible disruption to the flow of traffic. The proposal will have a probable additional impact on the on-street parking close to The Cross in Stewarton.

Development proposals for the sale of food and drink are considered to be acceptable uses, in principle, within town centre areas. Given that this proposed development is located close to The Cross within Stewarton town centre, the proposed hot food takeaway is considered an acceptable town centre use. With regard to the issue of on street parking there are currently double yellow lines marked on the road adjacent to the application site and the adjoining existing "Chip Box" hot food takeaway, thereby restricting parking on the road at this location. In addition, the Council's Roads and Transportation Division has raised no objections to the proposal in relation to traffic management or parking. Illegal parking is not a material planning consideration and is a matter that should be directed to the police.

3.5 East Ayrshire Council's Access Panel has not offered any comments in respect of the application.

Noted.

4.1 REPRESENTATIONS

4.1 The application was advertised on 21 July 2006 in the Kilmarnock Standard. In addition to the objection raised from Stewarton and District Community Council as outlined above, two additional letters of objection have been received and their grounds for objection are summarised as follows;

4.2 The proposed takeaway may result in greater traffic and parked cars outside the entrance to my property through the yard.

There are currently double yellow lines marked on the road adjacent to the application site and the adjoining existing "Chip Box" hot food takeaway, thereby restricting parking on the road at this location. Illegal parking is not a material planning consideration and is a matter that should be referred to the police. In addition, the Council's Roads and Transportation Division has not raised any objection to the application.

4.3 The proposed hot food takeaway is unnecessary as there are many hot food takeaways already existing in Stewarton.

Development proposals for the sale of food and drink are considered to be acceptable uses, in principle, within town centre areas. The number of hot food outlets in a given area and an implied 'over-provision' is not a material planning consideration. A town centre location for the proposal is preferred.

4.4 The proposals seek to place the bins at the entrance to the access yard to my property.

The applicant has confirmed that he does own the access area which forms part of the application site. The Council's Environmental Health Section has not raised any objection to the proposal or the siting of the bins for the development. Currently the bins are stored on either side of the access area and it is considered that sufficient space will be provided for bin storage within the site.

4.5 The existing flue at the rear of the property encroaches from the wall into the yard area and is a nuisance to the proprietors of the residential properties.

The existing flue which projects from the rear elevation of the building is the flue for the existing hot food takeaway the "Chip Box" and does not form part of the current planning application under consideration.

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 proposal 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 1,500m² ; and
- (ii) All Town Centres if the proposed gross floorspace is less than 1,500m².

The development proposal is located within Stewarton Town Centre and provides a floor space of less than 1500m² 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 likely to significantly detract from the character of the town centre area of Stewarton and will not adversely affect the amenity of the area.

Planning History

6.5 A planning application (05/0929/FL) for proposed new build to form hot food takeaway and 2 No. maisonettes was withdrawn on 06 February 2006.

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 05/0929/FL.

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

Site of Proposal:	4 Rigg Street STEWARTON KA3 5AG
Nature of Proposal:	Change of Use to Form Hot Food Takeaway and Installation of Shopfront
Name & Address of Applicant:	Mr McCulloch 15 Cutstraw Road STEWARTON KA3 5HX
Name & Address of Agent:	Thomson Dawes 21 Portland Road KILMARNOCK KA1 2BT

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 with the exception of during refuse collection times.

REASON In the interests of visual amenity.

3. Notwithstanding the plans hereby approved and prior to the authorised use commencing, details of any fume extraction method, including any ventilation flue, shall be submitted to and agreed in writing with the Planning Authority, or submitted for determination as to whether any ventilation flue will require the further express permission of the Planning Authority.

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

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.**