

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 23 JUNE 2006

**06/0204/FL: ALTERATIONS AND PROPOSED CHANGE OF USE TO
LICENSED PUBLIC HOUSE/RESTAURANT
AT THE BOX CAFÉ, 14 NEW BRIDGE STREET, CUMNOCK
BY TAY LIMITED**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for alterations to and a change of use of the property to form a public house. The proposals involve internal alteration to the property with a refit of the existing ground floor licensed café to form a public lounge bar and restaurant with a new bar and servery area being provided. It is also proposed to refit the existing first floor function suite to form a public lounge bar also with a new bar and servery area. New toilets will also be formed in the first floor. Access to both of the proposed lounges will be from the existing front entrance door off the Tanyard. A secondary entrance to the proposed ground floor lounge bar / restaurant is provided via the existing side entrance door on the north elevation of the property.

1.2 Externally there are no alterations to the building other than the erection of new signage. Two new signs are proposed and these are the subject of a separate Advertisement Consent application (Ref. No.05/1286/AD) for the erection of these signs which was approved on 03 March 2006. An associated Listed Building Consent application has also been submitted for consideration (Ref. No. 06/0206/LB) and this has not yet been determined at the time of writing this report.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. It is considered that the points of objection are either not valid, can be addressed by condition or do not carry sufficient weight to indicate that the application should be refused. Whilst the previous decision, (05/0470/FL), is a material consideration, on balance, greater weight should be applied to the terms of the development plan.

3.2 The application under consideration is for a further change of use of the Box Café building to use as a licensed public house with a lounge bar/restaurant on the ground floor with a lounge bar and function suite on the first floor. This is considered to be an acceptable town centre use supportive of regeneration in the town and the main alterations to the premises will be internal in nature.

3.3 The location of the proposed public house is sensitive due to the proximity of Cumnock Health Centre. It is however considered that through proper management of the premises, (the premises would be under one management improving the prospect of affective control relative to noise and related issues), the proximity of the police station and the imposition of appropriate conditions to mitigate for potential noise nuisance, the proposed development is acceptable for this town centre location.

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 because it would not be a significant departure from 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 as the proposal is the subject of objections

2. APPLICATION DETAILS

2.1 **Site Description:** The site is a two storey building situated between Cumnock Health Centre and the Glaisnock Water and fronting onto the A70. The building, which is a Category C(s) Listed Building, is constructed of ashlar stonework with a slate clad roof. The existing use of the building is as a licensed restaurant on the ground floor with an associated function hall on the first floor.

2.2 The site has direct access off the A70 road at The Tanyard (New Bridge Street) by way of a private lane running between the existing building and Health Centre premises. This access serves a parking area to the rear of the building and this area backs onto the car park pertaining to Cumnock Health Centre. A dwarf brick wall forms the boundary between the two car parks.

2.3 **Proposed Development:** Full permission is sought for alterations to and a change of use of the property to form a public house. The proposals involve internal alteration to the property with a refit of the existing ground floor licensed café to form a public lounge bar and restaurant with a new bar and servery area being provided. It is also proposed to refit the existing first floor function suite to form a public lounge bar also with a new bar and servery area. New toilets will also be formed in the first floor. Access to both of the proposed lounges will be from the existing front entrance door off the Tanyard. A secondary entrance to the proposed ground floor lounge bar/restaurant is provided via the existing side entrance door on the north elevation of the property.

2.4 Externally there are no alterations to the building other than the erection of new signage. Two new signs are proposed and these are the subject of a separate Advertisement Consent application (Ref. No.05/1286/AD) for the erection of these signs which was approved on 03 March 2006. An associated Listed Building Consent application has also been submitted for consideration (Ref. No. 06/0206/LB) and this has not yet been determined at the time of writing this report.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has indicated that it has no objections to the proposed development subject to conditions:

1. The developer shall form a drop off / pick up bay with a desirable minimum length of 10 metres by 2.5 metres wide along the frontage of the development. A 2 metres wide footway will be provided to the rear of the bay. The developer shall be responsible for re-locating street lighting columns and providing the appropriate road markings within the bay. The applicant must contact the Roads Division for further details / specification and a Road Opening Permit will be required.
2. No surface water must be allowed to discharge onto the public road.
3. Access to and egress from the private lane will require to be taken in forward gear.
4. Servicing of the development shall take place from the private lane and car park to the rear of the building.
5. Any existing public utility apparatus located in the verge will require to be protected beneath the proposed drop off / pick up bay.
6. All signs shall be properly secured to the building.
7. Any signs that project outwards from the building must not extend within 0.5 metre of the edge of the carriageway.
8. Any signs that overhang the footway shall be mounted at a height of not less than 2.25 metres.
9. Any lighting must be positioned and maintained in a manner that does not distract the attention of motorists.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.

3.2 East Ayrshire Council's Environmental Health Division has no objections in principle to make on the proposed development. If the premises are to be operated as two separate businesses, there should be adequate secure refuse / recycling to accommodate the separate operations if necessary. In a previous consultation response, reference was made to the possible installation of acoustic glazing on those windows facing onto nearby residential properties in order to prevent breakout of noise from the building, and also the desirability of some acoustic absorption measures within those areas of the premises where amplified music will be played; the upper floor of the premises is probably the most susceptible to possible noise nuisance creation in this regard. Given the listed building status of the property, it is presumed that there would be limitations on what could be done with the windows. However it is considered that some internal secondary glazing measures might assist the situation if action is needed. This point could be covered by a recommendation that the applicant seeks advice from this Division in this regard rather than attempt to attach a specific condition as it is difficult to quantify whether or how extensive any potential noise nuisance might arise in practice.

The comments of the Environmental Health Division have been forwarded to the applicant for information and consideration. A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with the Environmental Health Division.

3.3 Cumnock Community Council has no objections to the proposed development.

Noted.

4. REPRESENTATIONS

4.1 Two letters of representation have been received objecting to the proposed development. The main points of objection are summarised as follows:

4.2 The granting of this planning application would in our view increase the likelihood of undue nuisance and disorder and would cause a threat to public order and safety, bearing in mind the nature of services that the health centre provides.

The issue of disorder is a matter of policing and for the proper management of the proposed facility. It should be noted that the

proposed public house lies within 60 metres and in direct view of Cumnock Police Station and it might be expected that public order issues would be less of a problem compared to other town centre public house premises.

4.3 We feel that there is a sufficient number of public houses already serving the vicinity of the health centre.

The grounds of objection relating to over-provision of this type of facility are not valid in the determination of this application.

4.4 There are concerns there would be a safety issue, as there are evening clinics held, GP's and Midwives who work in the building, nights and weekends and the general safety of the building itself, again due to the very close proximity.

It is again considered that the issues raised by the objectors are more matters of policing rather than planning grounds of objection to the proposed development.

4.5 If this application were granted, there would be an issue of noise nuisance at any given time, again, pertaining to the close proximity of the health centre and the nature of our business.

The issue of potential noise nuisance is, as indicated by the response from the Environmental Health Division, difficult to quantify. Nonetheless, it will be for the applicant to ensure that the operation of the premises does not result in statutory noise nuisance and in this regard the applicant has been advised to consult directly with the Environmental Health Division.

4.6 We would like to emphasise the close proximity (5.5 metres) of the health centre and the Box Café and our ownership extends up to the side wall of the Box Café. The adjoining owner enjoys a right of access over an area of land between the two buildings to access the rear of their property for parking purposes. The resultant volume of traffic was therefore anticipated to be light and the Health Trust at that time agreed to the access rights on that understanding. The Trust is anxious to protect the environment of the Health Centre for the benefit of patients and staff and is naturally opposed to any change in circumstances that will cause a material increase in traffic density over the lane.

Right of access over this lane is not in itself a material planning consideration. In terms of traffic usage of the lane, it is not anticipated that the change of use to a public house will result in any significant increase in servicing compared to the requirements associated with the existing use of the property as a licensed café/restaurant. The Roads and Transportation Division requires the

formation of a pick up/ drop off point along the frontage of the building which should provide for the needs of patrons and servicing vehicles.

4.7 The proposed development will encourage groups to meet or congregate in the lane or use the lane as a shortcut, resulting in unacceptable levels of noise and disruption to adjacent clinical areas in the health centre.

It is considered that the conduct of patrons of the proposed public house is a matter for the proper management of the facility. The potential usage of the lane as a shortcut is considered to be a matter that could be resolved by the use of gates and this is considered to be a legal matter for the two parties to resolve in terms of usage and access.

4.8 A further concern arises from the possibility of increased noise nuisance from the development, particularly during summer months with open windows, potential increases in litter, vandalism and general unauthorised access to the rear and side of the health trust property.

The likely increase in the level of noise is a material consideration. The applicant has been advised of the comments of the Environmental Health Division with a view to taking into account the possibility of reducing the potential for break out of noise from the premises. A condition can be attached to any consent granted for the proposed development to mitigate issues of noise to ensure that the premises operate without detriment though noise nuisance to adjacent properties. Issues of potential vandalism are policing matters.

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 (1999) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan

5.2 Policy L8 states that the viability, vitality and design quality of existing town centres shall be maintained and enhanced. Accordingly:

A new investment in retailing and commercial leisure facilities shall be directed first to town centres and then to the edge of centres, in preference to out of centre locations;

The proposed development is considered to accord with this policy as the application site is within Cumnock Town Centre.

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 application site is located within the Cumnock Town Centre boundary and a public house is considered to be an acceptable town centre use under Schedule 5.

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 and have due regard to the architectural and historic qualities of the area or building concerned.

The application site is located within the Cumnock Conservation Area and is a C(S) listed building. It is considered that the proposed development meets with Council guidelines regarding development within Conservation Areas and listed buildings and it is considered that there are no issues from a planning policy perspective.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, third party letters of objection and the planning history of the site.

Consultations Responses

6.2 It is considered that the consultation responses indicate that the application should be approved.

Representations

6.3 It is considered that the points of objection are either not valid, can be addressed by condition or do not carry sufficient weight to indicate that the application should be refused.

Planning History

6.4 The property has been the subject of a number of planning applications. In 2001 (Ref: 01/0229/FL) a change of use was granted to convert the former church and Council stores into a café and under 18 leisure and recreation centre and children's nursery. A further application (Ref: 02/0312/FL) was made to remove a condition on the consent to enable the premises to become licensed. This was also approved. The conversion to a licensed café and function hall for discos and private parties was considered to be an appropriate use within the town centre. An application to convert the first floor of the premises for manufacturing use (Ref: 03/0747/FL) was refused on 14 November 2003.

6.5 A previous application (Ref. No. 05/0470/FL) for a change of use of the Box Café to a licensed public house was refused by the Southern Local Planning Committee on 17 June 2005, contrary to recommendation. The application was refused in view of the detrimental impact of the proposed development on the adjacent health centre.

6.6 A recent advertisement consent application for the erection of two illuminated signs relating to the current proposed development at the Box Café was approved on 03 March 2006 (Ref. No 05/1286/AD). Furthermore a Listed Building Consent application (Ref. No. 06/0206/LB) has been lodged in association with the current planning application but has not yet been determined.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. It is considered that the points of

objection are either not valid, can be addressed by condition or do not carry sufficient weight to indicate that the application should be refused. Whilst the previous decision, (05/0470/FL), is a material consideration, on balance, greater weight should be applied to the terms of the development plan.

8.2 The application under consideration is for a further change of use of the Box Café building to use as a licensed public house with a lounge bar / restaurant on the ground floor with a lounge bar and function suite on the first floor. This is considered to be an acceptable town centre use supportive of regeneration in the town and the main alterations to the premises will be internal in nature.

8.3 The location of the proposed public house is sensitive due to the proximity of Cumnock Health Centre. It is however considered that through proper management of the premises, (the premises would be under one management improving the prospect of affective control relative to noise and related issues), the proximity of the police station and the imposition of appropriate conditions to mitigate for potential noise nuisance, the proposed development is acceptable for this town centre location.

9. RECOMMENDATION

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

Alan Neish
Head of Planning, Development and Building Standards.

15 June 2006
(HM/HM)

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. Approved Ayrshire Joint Structure Plan (1999).
7. Previous Applications relating to the Box Café.

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0204/FL

Site of Proposal:	The Box Café 14 New Bridge Street CUMNOCK KA18 1DP
Nature of Proposal:	Proposed Alterations and Change of Use to Form Licensed Public House/Restaurant
Name & Address of Applicant:	Tay Limited Tay House 9-11 Academy Street AYR
Name & Address of Agent:	Drew Deans Design 11 Dryburgh Walk Moodiesburn GLASGOW

PPO's Reference: Hugh Melvin

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

1. Prior to the commencement to the use hereby approved, a drop-off/pick-up bay with a desirable minimum length of 10 metres by 2.5 metres wide shall be formed along the frontage of the development with a 2 metres wide footway provided to the rear of the bay. The re-location of existing street lighting columns and the provision of appropriate road markings within the bay shall be at the applicant's expense. No works shall be undertaken on site until the applicant has submitted to, and has had approved by the Planning Authority in consultation with the Roads Authority, details of the proposed bay and associated works.

REASON In the interests of public road safety.

2. No surface water must be allowed to discharge onto the public road.

REASON In the interests of public road safety.

3. Access to and egress from the private lane will require to be taken in forward gear.

REASON In the interests of public road safety.

4. Servicing of the development shall take place from the private lane and car park to the rear of the building.

REASON In the interests of public road safety.

5. Any existing public utility apparatus located in the verge shall be protected beneath the proposed drop-off/pick-up bay.

REASON In the interests of public road safety.

6. Noisy construction work on site shall be restricted to between 8:00 am and 6:00 pm Monday to Friday, 8:00 am and 1:00 pm on a Saturday, and no noisy work shall be undertaken on a Sunday. Noise from the works during the construction phase shall be at a level as will not cause annoyance or be otherwise detrimental to the amenity of the area.

REASON In the interests of residential and general amenity.

7. The premises shall operate without detriment to the amenity of existing properties through noise nuisance.

REASON In the interests of residential and general amenity.

Notes to Applicant:-

1. The applicant should make early contact with the Council's Roads and Transportation Division with regard to the details and specification of the proposed drop-off/pick-up bay and the relocation of existing street lighting.
2. The applicant should make early contact with the Council's Environmental Health Division which has recommended that consideration should be given to the installation of acoustic glazing in those windows on both floors which directly connect to the external environment, in order to reduce break out of noise to the surrounding environment. The applicant should also give consideration to the installation of additional acoustic absorption materials within those areas of the premises where amplified music etc. is to be presented.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S**

**PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**