

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 26 MAY 2006

**06/0178/FL PROPOSED BEER GARDEN TO REAR OF BALLOCHMYLE INN
AT 5 HIGH STREET, MAUCHLINE**

APPLICATION BY MRS. M AITKEN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the establishment of an outdoor beer garden located to the rear of the public house. A small outdoor seating area is proposed consisting of a few tables and chairs and an associated 1.8 metre boundary fence running the length of the eastern boundary.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 As indicated in Section 5 of the report, there are no specific policies relating to this type of development in the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, greater weight should be given to the material considerations in respect of the proposed development. As is indicated in Section 6 of the report there are material considerations relevant to this application.

3.2 The two third party representations lodged show clear concerns with respect to the proposed beer garden being sited to the rear of the Ballochmyle Inn. It is considered that such concerns can be addressed with the imposition of a number of conditions ensuring that an increased level of screening is provided and ensuring that any associated litter is confined within the red line site. Furthermore due to the nature of this application and the proximity with residential properties it is considered appropriate that if the committee are minded to approve the application consent shall be only for a temporary period of

2 years to allow the situation to be re-evaluated after it has been operating for a period of time.

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 would not require to be referred to the Development Services Committee as it would not be classed as a significant departure from the East Ayrshire Local Plan.

Alan Neish
Head of Planning and Building Control

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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AT 5 HIGH STREET, MAUCHLINE**

APPLICATION BY MRS. M AITKEN

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 application which is to be considered by the Local Planning Committee under the scheme of delegation, as the proposed development is the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located in the central area of the settlement of Mauchline lying both within the designated town centre area and falling within the Mauchline outstanding conservation area. The building is an unusual shape and size, finished in white smooth render and a slate roof and is significantly smaller than the adjacent two storey traditional buildings. The property is positioned on the northern side of the High Street with a narrow lane running along the length of the immediate western boundary. On the eastern side the property is attached to a larger two storey traditional sandstone building. A large open area of generally level ground is present to the rear of the property which provides access to the rear of the adjacent buildings. This area is made up of a gravel area with a small flat roof extension jutting out from the rear of the property.

2.3 **Proposed Development:** Full planning permission is sought for the establishment of an outdoor beer garden located to the rear of the public house. A small outdoor seating area is proposed consisting of a few tables and chairs and an associated 1.8 metre boundary fence running the length of the eastern boundary.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Mauchline Community Council has not responded to the consultation letter at the time of writing this report.

Noted.

3.2 East Ayrshire Council Environmental Health Division has no objections to the proposal and make the following comment.

Noted.

4. REPRESENTATIONS

4.1 Two letters of representation have been received with regard to the proposed development. The main points of objection are summarised below:

4.2 The stone wall on the plans states that it is 6 feet high but on closer viewing of the actual wall it varies considerably in height along its length ranging between 1500mm to 2100mm approximately on the public footpath side. However on the inside where the proposed beer garden is to be located the ground level is considerably higher therefore the inner wall height compared to the outer wall height is very low. It looks to be only approximately waist//shoulder height on the beer garden side and is concerning that if people are standing outside they could place a glass on the wall and if it fell could cause harm to the public who frequently use the pathway. I am also concerned that if people will be using this area for smoking due to the new smoking legislations that cigarette's could easily be thrown over the low wall littering the pathway.

The points raised are consistent with the Planning Officer's site visit where it was noted that the height of the wall differs along its length and that the ground level is slightly higher where the proposal is to be located. It is considered that the above points with respect to the possibility of objects falling/thrown onto the adjacent path can be restricted with the imposition of appropriate conditions. This would seek to ensure the provision of adequate bins for associated rubbish including cigarettes and an enhanced level of screening along the top of the existing wall. This could be as simple as a small trellis or similar feature, with some planting secured within the proposed beer garden which would extend and create uniform screening in addition to the already present stone wall. This would be imposed through a suitable condition to any consent granted.

4.3 Due to the low inner wall height people who are sitting or standing in the beer garden would be able to see directly into the gardens on the other side of the footpath.

See comments as noted in section 4.2 above.

4.4 Concerns regarding increased noise levels particularly in the summer months especially during the day over the weekend. Concerned not only with

increased noise from people using the pub but also potentially from music from the pub as there has been previous concerns over loud music in the evening.

It is natural that if people are frequenting outwith the public house noise may be transmitted more than were they inside. However with incorporation of some additional screening and the close monitoring from the personnel working within the public house it is not perceived that the formation of the beer garden will adversely affect the nearby residential amenity. Monitoring of any disturbances within the beer garden would also be a matter for the police should circumstances dictate.

4.5 If the rear of the Inn is converted into a beer garden has an alternative parking area been considered?

The parking area to the rear would seem to be an informal arrangement with no delineated parking spaces available. Therefore although the proposal will occupy the open ground to the rear it is not considered that this will require a further parking scheme to be introduced.

4.6 A potential decrease in property prices due to possible increased noise levels as a direct result of the new beer garden, decreased privacy and knowledge that there is a beer garden on the other side of the footpath at the rear of the houses.

Although an important issue the affect on property prices is not a valid planning concern. The applicant has certified that she is the owner of all of the property subject of the planning application.

4.7 Would the fire exit on the wall only be used in the case of emergency or could it be used as another entry/exit to the Inn.

The fire exit noted in the proposed plan would only provide emergency escape facilities for patrons using the beer garden and public house. This would not be used as a secondary entrance/exit and can be enforced with the imposition of an appropriate condition.

4.8 The applicant intends to convert a window into a door to provide access to the rear of their premises and therefore the beer garden this access will be built on ground that is communal.

This issue can not be used as a material planning consideration and would be a legal matter between the individual parties involved.

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 There are no policies contained in the structure plan which are especially relevant to the development.

Noted.

East Ayrshire Local Plan

5.3 There are no policies contained in the local plan which are especially relevant to the development.

Noted.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the third party representations.

Representations

6.2 The two objections received show clear concerns with respect to the impacts resulting from the proposed beer garden especially in terms of noise disturbance, increased litter levels and loss of privacy. It is considered that although these issues are all important they can be adequately addressed with the imposition of appropriate conditions.

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, there are no specific policies relating to this type of development in the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, greater weight should be given to the material considerations in respect of the proposed development. As is indicated in Section 6 of the report there are material considerations relevant to this application.

8.2 The two third party representations lodged show clear concerns with respect to the proposed beer garden being sited to the rear of the Ballochmyle Inn. It is considered that such concerns can be addressed with the imposition of a number of conditions ensuring that an increased level of screening is provided and ensuring that any associated litter is confined within the red line site. Furthermore due to the nature of this application and the proximity with residential properties it is considered appropriate that if the committee are minded to approve the application consent shall be only for a temporary period of 2 years to allow the situation to be re-evaluated after it has been operating for a period of time.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed 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 would not require to be referred to the Development Services Committee as it would not be classed as a significant departure from the East Ayrshire Local Plan.

Alan Neish
Head of Planning, Development and Building Standards

11 May 2006
RG
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above background papers should contact Mr Robin Ghosh on 01563 555483.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0178/FL

Location	BALLOCHMYLE INN 5 HIGH STREET MAUCHLINE
Nature of Proposal:	PROPOSED BEER GARDEN TO REAR OF BALLOCHMYLE INN
Name and Address of Applicant:	MARGARET AITKEN BALLOCHMYLE INN 5 HIGH STREET MAUCHLINE KA5 6AJ
Name and Address of Agent	N/A

DPO's Ref: Robin Ghosh

PPO's Ref: Hugh Melvin

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

1. Planning permission hereby approved is granted for a limited period of two years from the date of this decision. At the expiration of this period the beer garden shall be removed and the land shall be restored to its former state unless a further planning permission is granted.

REASON: In the interests of residential amenity.

2. A trellis, or similar fence/boundary feature, and an associated planting scheme running the length of the western boundary wall shall be submitted to and approved by the Planning Authority prior to the commencement of any works on site and shall be implemented prior to the beer garden being open for public use.

REASON: In the interests of safeguarding the residential amenity and the visual amenity of the conservation area.

3. Notwithstanding the submitted plans the fire exit noted at the northern section of the proposed beer garden shall only be used in emergency situations and not as a new entrance/exit to the premises.

REASON: In the interests of residential amenity.

4. Notwithstanding the submitted plans refuse bins shall be located within the red line application site area to prevent litter and cigarette from entering the adjacent public footpath.

REASON: In the interests of safeguarding the residential amenity and the visual amenity of the conservation area.

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