

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 17 AUGUST 2001

**01/0328/FL: PROPOSED ALTERATIONS AND EXTENSION
(SINGLE STOREY) TO FORM OFFICES/STAFF ACCOMMODATION
FOR EXISTING SHOP AT 55 MacPHAIL DRIVE, KILMARNOCK
BY MR EDGAR**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant proposes to extend the premises to the side in order to increase the floor area of the shop. As a result the internal configuration of the shop will alter and the area of extension will accommodate the main office, managers office and staff facilities. The extension will comprise approximately 68 square metres in area and will be 3 metres in height which is approximately 1 metre lower than the height of the existing shop. The extension will extend from 2 metres behind the front building line of the shop and will be flush with the rear elevation. External materials will comprise a facing brick base course and render walls and the existing metal railings will be removed.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5.2 of the report it is considered that the application is 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.

3.2 The proposal complies with the policies of the EALP. The extension relates to an existing shop which serves the local neighbourhood on a day-to-day basis. The extension is of a design compatible with the neighbouring properties and it is considered that the extension will not adversely affect the viability and vitality of the town centre or other nearby retail units. None of the statutory consultees have objected. With regard to the letter of objection, it is unlikely that a small extension to an existing shop will increase the level of disturbance and noise to neighbouring residential areas.

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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Report by Head of Planning and Building Control

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 because it is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** This application site relates to the SPAR grocery store at 55 MacPhail Drive, New Farm, Kilmarnock. The application site comprises the existing shop unit and ground adjacent to the gable elevation. The shop forms part of a row of 3 shops. The site is bound to the north by ground associated with residential units at MacNicol Place, to the south by a footpath beyond which is MacPhail Drive, to the east by a public footpath beyond which is a grassed area and terraced residential properties, to the west the other shop units. The building is essentially flat-roofed with a shopfront constructed of facing brick and aluminium frame windows and doors. Side and rear elevations have a facing brick base course and render walls. The site is currently enclosed by metal railings.

2.2 **Proposed Development:** The applicant proposes to extend the premises to the side in order to increase the floor area of the shop. As a result the internal configuration of the shop will alter and the area of extension will accommodate the main office, managers office and staff facilities. The extension will comprise approximately 68 square metres in area and will be 3 metres in height which is approximately 1 metre lower than the height of the existing shop. The extension will extend from 2 metres behind the front building line of the shop and will be flush with the rear elevation. External materials will comprise a facing brick base course and render walls and the existing metal railings will be removed.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads Division have no objections to the proposal.

Noted.

3.2 Transco have forwarded a copy of their record plan for the applicants attention and have made no adverse comments.

Noted. Should Members choose to grant consent, Transco's correspondence can be forwarded to the applicant and his attention drawn to same by a note attached to the consent.

3.3 The Coal Authority have not raised any instability issues which would effect the determination of this application.

Noted.

3.4 West of Scotland Water have advised they have no comments to make regarding this application, however if the developer is aware of or discovers any public sewers/water mains affected by this application they must notify their office.

Noted. If Members choose to grant consent an advisory note can be attached to the decision notice.

3.5 East Ayrshire Council Environmental Health have no adverse comments to offer. In terms of the letter of objection received, it is advised that points 1 & 2 would be a police matter i.e. loitering and disturbance. Environmental Health have also confirmed they have received no complaints in this connection.

Noted. These comments have a relevance to the comments made in Section 4 of this report.

3.6 Strathclyde Police have advised that it is apparent from their records that there is a certain amount of disorder within the immediate environment, with a total of 26 complaints being made to the Police over the last six months. Whilst there is a certain amount of sympathy with the complainer, her assertion that the increase in the size of the shop will result in a commensurate increase in the level of disorder, defies logical analysis.

It is also difficult to predict the possibility of current problems being displaced towards the spare ground next to the complainants property at 57 MacPhail Drive. The possibility of this happening may be reduced by the introduction of fencing. In relation to her comments regarding opening hours, the vast majority of these complaints occur between 2100 and 2230.

The above response is noted and is of direct relevance to the objection lodged as discussed in Section 4 of this report.

4. REPRESENTATIONS RECEIVED

One letter of objection has been received and the points raised comprise the following:-

4.1 At present there is a lot of disturbance from youths congregating at the side of the premises. The increase in size of the shop can only make this worse causing noise and general disturbance near to the residential dwellinghouse at 57 MacPhail Drive.

The comments of Strathclyde Police in paragraph 3.7 are of direct relevance. It is also the opinion of this Division that an increase of 68 square metres in floor area would not result in a significant level of disorder.

4.2 The grass area next to 57 MacPhail Drive is unfenced and open to those people loitering who will lose the area currently used by them beside the shop, if this proposal goes ahead. The disruption of noise, swearing and kicking footballs against shop walls etc will be able to migrate without obstacle.

As highlighted by Strathclyde Police and in paragraph 4.1 above, it is difficult to assess whether the current level of disturbance would continue or move towards the objectors property. The applicant does not have legal control over the land next to the objectors property and it would be excessively onerous to require him to fence this land which does not appear to lie within the curtilage of 57 MacPhail Drive.

4.3 There should be a limitation on the hours of operation to avoid further disturbance at night.

Noted. It is not considered appropriate to restrict the hours of operation of an existing use which is being extended in this manner. This Division may consider restricting hours of operation of a business at the time of its establishment. In this instance the attachment of an opening hours condition to the extension alone would be impractical and applying such a restriction retrospectively to the existing retail floorspace would be unjustified by the scale of the extension.

5. DEVELOPMENT PLAN STATUS

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 Adopted Ayrshire Joint Structure Plan

and the Adopted Kilmarnock Local Plan (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Policy 4.3.2 of the Kilmarnock Adopted Local Plan states that the Council shall allow development involving additional convenience retailing floorspace where the proposed development is primarily intended for the sale of daily provisions to meet an identified local need and the proposal is for an extension of not more than 200 square metres which does not detrimentally affect any nearby residential properties.

The Adopted Local Plan is significantly out-of-date although nevertheless, the proposal is not considered to be contrary to this policy. The extension will allow for the provision of office and staff accommodation which in turn will allow for an increased floor area. The shop sells daily provisions and the extension is small in scale and less than 200 square metres. For the reasons discussed in Section 4 of this report, it is not considered that the proposal will detrimentally affect neighbouring properties to an unacceptable degree that would warrant refusal of the application.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal other material considerations relevant to the determination of this application are the East Ayrshire Local Plan Finalised Version with Modifications, (EALP) the consultation responses and letter of objection.

East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Adopted Kilmarnock Local Plan is considerably out-of-date and it is therefore appropriate that greater weight should be attached to more recent expressions of Policy. The Council has agreed that the EALP should be considered as a prime material consideration.

6.3 The proposal should be assessed against RTC9 of EALP which relates to the extension of existing retail premises outwith the town centre. Policy RTC9 states that the Council will be generally supportive of proposals which are of a scale and size appropriate to the premises and of high quality design and finish. Where any proposal would result in more than 200 m² of gross floorspace it will be assessed against Policy RTC5 which states that the proposal must be justified and will be assessed against various criteria.

In this instance the sales area is only being increased by approximately 47 square metres which is of a particularly small scale. It is therefore not considered that such works will impact adversely on other retailing facilities or Kilmarnock town centre as it will be used for the sale of daily goods to meet the needs of the surrounding neighbourhood. Therefore it is not necessary to justify the proposal against the sequential test. The extension will be finished

in materials to match the existing property and is publicly accessible within the neighbourhood of New Farm Loch .

Consultations

6.4 The consultation responses received have been highlighted in Section 3 of this report. None of the responses raise any material considerations as to warrant the refusal of this application.

Letter of Objection

6.5 The letter of objection has been discussed in Section 4 of this report and it is considered that the points raised are not of such significance as to warrant refusal of this application.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 The applicant has concluded suspensive missives with the Council regarding the application site. Under Circular 4/1997 "Notifications of Planning Applications" the Scottish Ministers would require notification of development in which the Planning Authority has a financial/ownership interest which does not accord with the Adopted Local Plan or has been the subject of a substantial body of objections. The present proposal will not require notification to the Scottish Ministers as it is not contrary to Kilmarnock Adopted Local Plan and it has not been subject to a substantial body of objection.

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 of the report it is considered that the application is 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.

8.2 The proposal complies with the policies of the EALP. The extension relates to an existing shop which serves the local neighbourhood on a day-to-day basis. The extension is of a design compatible with the neighbouring properties and it is considered that the extension will not adversely affect the viability and vitality of the town centre or

other nearby retail units. None of the statutory consultees have objected. With regard to the letter of objection, it is unlikely that a small extension to an existing shop will increase the level of disturbance and noise to neighbouring residential areas.

9. RECOMMENDATIONS

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

Alan Neish
Head of Planning and Building Control

7 August 2001 (FMF/MS)
FV/DM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Objection.
4. Statutory Consultations.
5. East Ayrshire Local Plan Finalised Version with Modifications.
6. Adopted Kilmarnock Local Plan.
7. Approved Strathclyde Structure Plan.
8. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on (01563) 576769.

Implementation Officer: Dave Morris

I:CLPC/010328

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 01/0328/FL

Location: 55 MacPhail Drive
KILMARNOCK

Nature of Proposal: Proposed Alterations & Extension (Single Storey) to Form Offices/Staff Accommodation For Existing Shop

Name & Address of Applicant: Mr Edgar
55 MacPhail Drive
KILMARNOCK KA3 7ET

Name & Address of Agent: W I Munro
Chartered Architects
1 Seaford Street
KILMARNOCK KA1 2BZ

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

1. The proposed extension shall be finished in materials to match those of the existing building.

REASON To ensure that the extension matches the external appearance of the existing building and thereby maintains the visual quality of the area.

2. At no time shall any building material be stored on the adjacent footpath.

REASON To allow access to MacPhail Drive and the surrounding area.

Notes

1. West of Scotland Water have advised that if the developer is aware of or discovers any public sewers/water mains affected by this application they must contact their office immediately at 35 Glenburn Road, Prestwick (Tel No. 0808 100 5333)
2. A copy of the consultation response received from Transco is attached. The Developer is strongly advised to note same.

**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.**

AGENDA