

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 12 JANUARY 2001**

**00/00712/FL: PROPOSED CHANGE OF USE FROM DOMESTIC GARAGE TO  
CHIROPODY SURGERY  
AT 23 INCHGOTRICK ROAD, KILMARNOCK  
BY MR & MRS YOUNG**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The proposal entails the change of use of the domestic, integral garage to a chiropody surgery. A utility room and toilet is also proposed within the existing garage area. The proposal includes a link door to the applicant's house. The applicant intends to use the surgery on a part-time basis, 3 days a week and on two evenings of the week up to 7.30 pm. The clients are seen by appointment only one at a time at hourly intervals. No walk-in business will be available or encouraged by the applicant. The existing driveway will accommodate three cars and clients will be encouraged to use this facility. External works associated with the proposal involve the replacement of the garage door with a single door, having two windows on either side, and the replacement of a window on the rear elevation with a door.

**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 1 The proposed development is considered to be contrary to Policy 4.3.7 of the Adopted Kilmarnock Local Plan but it complies with Policy IND II of the East Ayrshire Local Plan Finalised Version. The former is considered to be considerably out of date and therefore greater weight should be attached to the East Ayrshire Local Plan Finalised Version as it was prepared in the context of the Ayrshire Joint Structure Plan, and recent government guidance. It is considered to be the more recent expression of policy. The proposed development will not have an adverse impact on other residential properties as the applicant is the sole employee of the business and it will operate on a part-time basis. The applicant intends to operate during three days of the week. Nuisance arising from noise, smell and general disturbance is considered to be minimal. The concerns of the objections can be alleviated by the application of conditions to any planning consent granted regarding hours of operation and car parking. The objector's

concerns regarding the increase in traffic have not been echoed by the Roads Division. The proposed external alterations are acceptable and in keeping with residential property and area.

**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 as it is subject to objections.

**2. APPLICATIONS DETAILS**

2.1 **Site Description:** The application site is located off the Ayr Road in the Caprington Estate. The property is a semi-detached house and it is surrounded by other similar residential properties.

2.2 **Proposed Development:** The proposal entails the change of use of the domestic, integral garage to a chiropody surgery. A utility room and toilet is also proposed within the existing garage area. The proposal includes a link door to the applicant's house. The applicant intends to use the surgery on a part-time basis, 3 days a week and on two evenings of the week up to 7.30 pm. The clients are seen by appointment only one at a time at hourly intervals. No walk-in business will be available or encouraged by the applicant. The existing driveway will accommodate three cars and clients will be encouraged to use this facility. External works associated with the proposal involve the replacement of the garage door with a single door, having two windows on either side, and the replacement of a window on the rear elevation with a door.

**3. CONSULTATIONS**

3.1 The East Ayrshire Council Roads Division have no objections to the proposed development provided the existing off road parking is maintained.

***A condition regarding the provision of off road parking can be attached to any grant of planning permission.***

3.2 West of Scotland Water have commented that the proposed development is served by both foul and surface water sewers and the owner should ensure that any new internal or external pipework is connected to the correct drain or sewer.

***A note regarding this matter can be attached to any grant of planning permission.***

3.3 East Ayrshire Council Environmental Health & Waste Management have no objections to the proposal. There will be minimal clinical waste and the applicant has been in contact with them.

***Noted.***

3.4 Riccarton Community Council is not formally constituted at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

Four letters have been received objecting to the application as follows:

4.1 There is no indication of proposed hours of business, weekdays or weekends, or how many people are to be employed in the business.

***The applicant has stated that she is the only employee of the business and operates on a part time basis three days a week. On two of these days the business is open until 7.30pm. The applicant states that clients are seen one at a time by appointment only at hourly intervals, no walk-in business is available.***

***A condition regarding the hours of operation of the business can be attached to any planning permission if granted restricting the operation of the surgery to normal working hours.***

4.2 There are no parking facilities for customers and concerns are raised regarding the increase in traffic in the residential area and the increase in vehicles requiring to park on the street. Restricted parking space due to staggered driveways in a street which already has a parking problem.

***The Roads Division have raised no objections provided existing off road parking is maintained. The applicant has stated that only one customer per hour will visit the business, and this is not considered significant. There are 3 existing off road car parking spaces within the existing curtilage; two***

***of which will be available for use in connection with the proposed development.***

4.3 This is a residential area which is not suitable for a business and more suitable location could be found for a chiropody surgery within one of the many vacant premises in the town centre. A town centre location would comply with the policy of the Council to avoid commercial development within residential areas.

***The merits of the proposal in terms of the Council's main policy base are considered in Sections 5 and 6 below. The availability of accommodation is not relevant to the determination of this application which must be considered on its own merits.***

4.4 What arrangements will be made by the applicant for the removal of clinical waste if the proposed business was to go ahead.

***The applicant has been in contact with the Council's Environmental Health Division and they have indicated that clinical waste will be minimal and appropriate arrangements will be adopted.***

## **5. ASSESSMENT AGAINST THE DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Adopted Ayrshire Joint Structure Plan and the Adopted Kilmarnock Local Plan.

5.2 Policy 4.3.7 of the Adopted Local Plan is considered relevant. It discourages the provision of non-retail commercial uses in urban areas (which are mainly residential in nature) outwith the areas identified in Policy 4.3.6 except for hotels and guest houses under Policy 4.5.4 and in Portland Road, Kilmarnock under Policy 5.1.6.

***The proposed development is considered to be contrary to the above policy however, as the Adopted Kilmarnock Local Plan is considerably out of date and was prepared in the context of the Strathclyde Structure Plan, greater weight must now be attached to the East Ayrshire Local Plan Finalised Version as a more recent expression of policy and a prime material consideration.***

## **6. MATERIAL CONSIDERATIONS**

6.1 In the East Ayrshire Local Plan Finalised Version, Policy IND II is supportive of the operation of small businesses in residential properties or associated outbuildings subject to the following criteria:-

- (i) the primary use of the property remains residential;

- (ii) the business can be adequately accommodated within the existing property;
- (iii) the business use does not adversely affect the existing residential use of the property or impact adversely on other residential properties in the area; and
- (iv) that adequate car parking is provided to the standards of the Council as Roads Authority.

***The proposed development can be accommodated satisfactorily within the existing garage. The primary use of the property will still remain residential as the surgery will operate only 3 days per week. Through the use of conditions regarding hours of operation and a personal consent the proposed development will not have an adverse impact on the neighbouring residential properties. The Roads Division have raised no objections to the development provided the existing off-road parking is maintained.***

## **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 The proposed development is considered to be contrary to Policy 4.3.7 of the Adopted Kilmarnock Local Plan but it complies with Policy IND II of the East Ayrshire Local Plan Finalised Version. The former is considered to be considerably out of date and therefore greater weight should be attached to the East Ayrshire Local Plan Finalised Version as it was prepared in the context of the Ayrshire Joint Structure Plan, and recent government guidance. It is considered to be the more recent expression of policy. The proposed development will not have an adverse impact on other residential properties as the applicant is the sole employee of the business and it will operate on a part-time basis. The applicant intends to operate during three days of the week. Nuisance arising from noise, smell and general disturbance is considered to be minimal. The concerns of the objections can be alleviated by the application of conditions to any planning consent granted regarding hours of operation and car parking. The objector's concerns regarding the increase in traffic have not been echoed by the Roads Division. The proposed external alterations are acceptable and in keeping with residential property and area.

## **9. RECOMMENDATION**

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**

4 January 2000  
(CSI/MMM/MS)

FV/DVM

#### **LIST OF BACKGROUND PAPERS**

1. Application forms/plans.
2. Statutory notices/certificates.
3. Consultation replies.
4. Letters of objection.
5. Correspondence from/to the applicant.
6. East Ayrshire Council Local Plan Finalised Version.
7. Adopted Kilmarnock Local Plan.

Anyone wishing to inspect the above papers please contact Craig Iles on 01563 576770.

***Implementation Officer: Dave Morris***

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/00712/FL

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Site of Proposal: 23 Inchgotrick Road  
KILMARNOCK

Natural of Proposal: Proposed Change of Use from Domestic Garage to  
Chiropody Surgery

Name & Address of Applicant: Mr & Mrs R Young  
23 Inchgotrick Road  
KILMARNOCK KA1 4UJ

Name & Address of Agent:

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DPOs Reference: CSI/MMM

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

1. The proposed development shall be carried out in accordance with the application form, plans and letter submitted on 16 October 2000. In particular the chiropody surgery use shall only be implemented on three days of the week; details of which days shall be submitted to and agreed by the planning authority, prior to the commencement of development.

REASON To ensure that the proposed development is implemented according to the approved plans and details.

2. The permission hereby granted shall not enure for the benefit of land but for the benefit of Mr & Mrs Young only, and on discontinuance of his/her occupation of the land the use hereby permitted shall cease and the buildings shall be restored to their original use and condition.

REASON Permission is being granted in this case solely because of the extenuating personal circumstances.

3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (Scotland) Order 1992, and the Town and Country Planning (Use Classes) (Scotland) Order 1997, this permission relates to the use of the premises

as 'chiropody surgery' and the further express permission of the Planning Authority shall be required in respect of any other use which falls within the same use class as the use hereby approved.

REASON To enable the Planning Authority to retain control over the use of the site in the interests of residential amenity.

4. The use hereby approved shall operate without detriment to adjoining properties by reason of noise, smell or general disturbance.

REASON To safeguard the amenity of the area.

5. Notwithstanding the submitted details, car parking spaces for two customers' cars shall be provided and thereafter maintained within the site prior to the use of the chiropody surgery commencing.

REASON In the interests of road safety.

6. The business shall operate only between the hours of 9.00am and 08:00pm at no times on a Saturday or Sunday.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

Note 1: The applicant should ensure that any new internal or external pipework is connected to the correct drain or sewer and shall make early contact with West of Scotland Water, 35 Glenburn Road, Prestwick.

Note 2: The applicant should contact the Planning Authority with regard to any signage proposed in association with the use hereby approved.

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**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**