

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 13 SEPTEMBER 2001

**01/0452/FL: PROPOSED BEER GARDEN TO SIDE OF PUBLIC HOUSE
AT THE HOWARD ARMS, GLENCAIRN SQUARE, KILMARNOCK
BY SCOTTISH AND NEWCASTLE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.2 It is proposed to locate a beer garden on the area of tarmac ground which currently forms part of the car parking area for the public house. The beer garden will accommodate 5 timber bench seats, four 4-person round tables and one table with 8 seats. The applicants propose a 1.74 metre high front boundary render wall with timber infills and along the northern side boundary the wall will be continued. It is proposed to site a bin store within the site to the rear of the beer garden. This area will be enclosed by a 1.8 metre high timber vertical slatted fence and accommodate 3 bins and 4 bottle buckets.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 4.1 there are no relevant policies in the Adopted Local Plan and therefore greater weight should be attached to the material considerations.

3.2 There are material considerations relevant to this application as indicated in Section 6 of the report and they are supportive of the proposal. There are no relevant policies in the EALP and therefore greater weight should be attached to other material considerations. The consultation responses received are supportive and the letter of objection whilst noted, does not raise issues significant enough to justify refusal.

3.3 The application site lies within the town centre of Kilmarnock, where there is a mix of uses and a certain level of noise and disturbance already exists. The formation of a beer garden to an existing public house is considered acceptable in this location. It is considered that the beer garden will not have such an adverse impact on the amenity of adjacent residential properties as to justify a recommendation of refusal. The erection

of a boundary wall with timber panels will define the beer garden area and provide a barrier between the beer garden and adjacent residential properties. The boundary treatment will be commensurate with the existing building in terms of design, scale and will provide a pleasing aspect to Glencairn Square.

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 an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the Howard Arms Public House and its curtilage. The Public House is located at the southern boundary of the town centre facing into Glencairn Square. The site currently comprises an open boundary to the front with 1.7 metre high boundary walls to the rear boundary and a 0.46 m wall to the side boundary. The site is bound to the north by residential properties whose pedestrian access runs adjacent to the side boundary wall, to the east by Glencairn Square, to the south by West Shaw Street and to the west by industrial land and buildings.

2.2 **Proposed Development:** It is proposed to locate a beer garden on the area of tarmac ground which currently forms part of the car parking area for the public house. The beer garden will accommodate 5 timber bench seats, four 4-person round tables and one table with 8 seats. The applicants propose a 1.74 metre high front boundary render wall with timber infills and along the northern side boundary the wall will be continued. It is proposed to site a bin store within the site to the rear of the beer garden. This area will be enclosed by a 1.8 metre high timber vertical slatted fence and accommodate 3 bins and 4 bottle buckets.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Environmental Health initially advised that the area earmarked for the beer garden is where the refuse bins for the Public House are stored. This would mean that bins would require to be stored kerbside which may not be acceptable to the Council's Roads Division.

Noted. The applicant has now submitted proposals which designate an area of the beer garden towards the rear boundary for use as a bin store. This proposal is acceptable to Environmental Health.

3.2 The Piersland Bentinck Community Council have not responded to their consultation at the time of writing this report.

Noted.

3.3 Transco have forwarded their record plan and advise that the applicant contact their Glasgow Operations Office.

A note can be attached to the Planning Consent if granted to advise the applicant of Transco's requirements.

3.4 The Coal Authority have advised that there are no instability issues which would affect this application.

Noted.

3.5 The Roads Division have no objections to make and have further advised that the car park is seldom used and has more recently been used for the storage of bins. There is a large car park at Glencairn Retail Park across West Shaw Street and double yellow lines preventing on-street car parking in the vicinity.

Noted.

4. REPRESENTATIONS

One letter of objection has been received. The grounds of objection are as follows:-

4.1 It is understood that the applicant's propose to re-develop the existing car park as a beer garden. Ease of vehicle circulation and pedestrian safety within the proximity of the adjoining property at West Shaw Street is of paramount consideration. This proposal would result in increased on-street car parking in the locality which would adversely affect the operational aspects of the objector's business at West Shaw Street.

The Roads Division have no objections to the proposed development. There is car parking at the Glencairn Retail Park and existing on-street parking restrictions will not result in operational difficulties for surrounding businesses.

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 Approved Ayrshire Joint Structure Plan and the Adopted Kilmarnock Local Plan (1985). The Adopted Local Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against this document and its associated policies. There are however no relevant policies and therefore greater weight should be placed on the other material considerations as identified in Section 6 of this report.

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 letter of representation, consultation responses and impact on the amenity of adjacent properties.

6.2 East Ayrshire Local Plan Finalised Version with Modifications

The Adopted 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 a prime material consideration. There are however no policies which are applicable to the proposed development within EALP.

6.3 Consultation Responses

None of the consultation responses have raised any significant issues which would warrant the refusal of this planning application. The applicant has met the requirements of Environmental Health with a designated bin store area within the site. The comments of the Roads Division do not offer any objections to the proposed development.

6.4 Letter of Representation and Impact on the Amenity of Adjacent Properties

The content of the letter of the objection has been discussed in Section 4 of this report. There is sufficient car parking in the immediate area and existing on-street parking restrictions will prevent any operational difficulties for surrounding businesses when the beer garden is implemented. In terms of the impact of the beer garden on adjacent residential properties, no objections have been received from these residents. The proposal involves an extension to an existing public house which is located in the town centre surrounded by similar and other town centre uses.

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 is indicated at paragraph 4.1 there are no relevant policies in the Adopted Local Plan and therefore greater weight should be attached to the material considerations.

8.2 There are material considerations relevant to this application as indicated in Section 6 of the report and they are supportive of the proposal. There are no relevant policies in the EALP and therefore greater weight should be attached to other material considerations. The consultation responses received are supportive and the letter of objection whilst noted, does not raise issues significant enough to justify refusal.

8.3 The application site lies within the town centre of Kilmarnock, where there is a mix of uses and a certain level of noise and disturbance already exists. The formation of a beer garden to an existing public house is considered acceptable in this location. It is considered that the beer garden will not have such an adverse impact on the amenity of adjacent residential properties as to justify a recommendation of refusal. The erection of a boundary wall with timber panels will define the beer garden area and provide a barrier between the beer garden and adjacent residential properties. The boundary treatment will be commensurate with the existing building in terms of design, scale and will provide a pleasing aspect to Glencairn Square.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved.

Alan Neish
Head of Planning and Building Control

04 September 2001

(FMF/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and Plans.
2. Statutory Notices/Certificates'
3. Consultation Replies.
4. Letter of Objection.
5. East Ayrshire Local Plan Finalised Version with Modifications.
6. Approved Ayrshire Joint Structure Plan.
7. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris

010452FL

EAST AYRSHIRE COUNCIL
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0452/FL

Site of Proposal: Howard Arms
3 Glencairn Square
KILMARNOCK

Nature of Proposal: Proposed Beer Garden to Side of Public
House

Name & Address of Applicant: Scottish & Newcastle
Gilmore Park
Fountainbridge
EDINBURGH EH3 9SB

Name & Address of Agent: Cobban Lironi Weddell & Thomson
6 Royal Crescent
GLASGOW G3 7SL

DPOs Reference: FMF/MMM

The above FULL application should be granted.

Note to Applicants:

The applicants shall contact Transco at their Glasgow Operations Office to discuss works in the vicinity of their apparatus.

**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