

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 6 DECEMBER 2002**

**02/0848/FL: PROPOSED CHANGE OF USE OF LAND TO CAR SALES  
AT 16 JAMES LITTLE STREET, KILMARNOCK  
FOR MR DAVID RITCHIE**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The applicant proposes to utilise the land for car sales. No other plans showing any buildings or alterations have been submitted.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.1 As is indicated at Section 5 of the report, the application is considered to be in accordance with the Development Plan. Given the terms of Sections 25 and 37(2) of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 of the report, there are material considerations relevant to the application and these are supportive of the proposal. The proposed use accords with Policies RTC18 and RTC19 of the East Ayrshire Local Plan. The use satisfies the requirements of the consultees, principally the Roads and Transportation Division and Environmental Health, and the letter of representation whilst noted does not raise any material issues that would justify planning permission being refused.

**CONTRARY DECISION NOTICE**

Should the Committee agree that the application be refused contrary to the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

**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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FOR MR DAVID RITCHIE**

**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 the subject of an objection.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site comprises an area of ground at 16 James Little Street comprising 832 square metres in area. The site is a level area of ground bounded to the north by properties on High Glencairn Street, to the east by a small industrial estate and property owned by the applicant, to the south by James Little Street, beyond which are residential properties and to the west by residential/commercial properties on High Glencairn Street.

2.2 **Proposed Development:** The applicant proposes to utilise the land for car sales. No other plans showing any buildings or alterations have been submitted.

**3. CONSULTATIONS AND ISSUES RAISED**

3.1 The Coal Authority and SEPA have not objected to the application.

***Noted.***

3.2 Scottish Water, East Ayrshire Council Property Services and Piersland/Bentinck Community Council have not replied to their consultations at the time of writing this report.

***Noted.***

3.3 Transco have not objected although they have forwarded a copy of their record plan and requested early contact with the applicant.

***Noted. Should Members choose to grant consent, a copy of these details can be forwarded to the applicant.***

3.4 Environmental Health have no objections to make and advise that the site currently operates as a car sales yard and has done so previously. They have not received any complaints regarding the premises in the past, however, given the close proximity to residential accommodation, it may be prudent to limit the hours of operation and vehicle movements to between 7.00am to 10.00pm as a precautionary measure.

***Noted. A condition to that effect can be attached to any consent.***

3.5 East Ayrshire Council's Roads and Transportation Division have no objections to the proposal and advise that the existing facility has adequate means of access. They have further advised that customer parking is not requested as customers are unlikely to enter this type of salesyard, even if spaces were provided by the applicant. It is also their understanding that James Little Street will be included in the new town centre traffic management scheme and parking on street will be prohibited adjacent to the car sales site. Concerns of residents regarding careless parking should not therefore be an issue in the future.

***Noted.***

#### **4. REPRESENTATIONS**

One letter of objection has been received from a resident of James Little Street. The points raised are as follows:

4.1 The present use of the site has resulted in noise of an ongoing nature comprising of revving vehicles and rally cars. If granted permission to change the use of the site, such noise could become a constant feature especially if it continues at unsociable hours like at present.

***The site is an existing commercial use and Environmental Health have not received any complaints although owing to the proximity of residential properties the hours of operation and vehicle movement could be limited to those stated in paragraph 3.4.***

4.2 The site is currently used to maintain and fix vehicles as a workshop and there is no regard for public safety as vehicles race in and out of the property and along James Little Street.

***If the proposed use is approved, maintenance work on cars offered for sale would be ancillary. Thereafter, if car repairs were offered on a wider scale, such action could face enforcement procedures and would be likely to require consent in its own right. Irresponsible driving is a police matter and not a material planning consideration.***

4.3 The proposal will generate additional traffic that will result in increased noise levels and on-street parking outside residential property. The current flow of traffic is already higher at present due to the additional traffic lights at Glencairn Square.

***The Council's Roads and Transportation Division have not objected to the application.***

4.4 Careless parking results in the residential properties across James Little Street being unable to access their private parking and pedestrian pavement. The obstruction of such access could result in damage to residents cars.

***Careless parking resulting in obstruction is a police matter and damage to property is a civil matter. Neither issues are material planning considerations in their own right.***

4.5 The car sales area is actually used as a valeting area and this is happening at present.

***If approved, the valeting of cars for sale would be ancillary. If the site was used for general valeting purposes, this would be an enforcement matter and would be likely to require planning consent in its own right.***

4.6 The current occupiers are very antisocial and the yard and surrounding area is untidy, dirty and unacceptable with vehicles often left outside to the risk of public safety. The current occupiers seem to forget that the surrounding area is residential.

***The surrounding area is not an homogeneous residential area. It is located partly within the defined town centre and is an area of mixed, residential, commercial and industrial usage. It is an area where residents cannot reasonably expect the same levels of amenity as in more outlying residential locations.***

## 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 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 Notwithstanding the age of the Adopted Plan the application requires to be tested against Policy 4.3.6 which states that the Council will encourage the provision or non-retail commercial uses where they will not detrimentally affect any adjoining activities.

***The application site lies within a mixed use area and within the designated town centre. It is not considered that the use will adversely impact on nearby residential properties to an extent meriting refusal of the application, as explained in Section 4 of this report.***

5.3 The proposal can also be assessed against Policy 4.3.8 which relates specifically to garages and motor vehicle showrooms. This Policy states that garages/showrooms shall be allowed in urban areas of the local plan area subject to the following:-

- (i) the proposed development is for a site which has adequate sightlines and customer parking facilities adjacent to a main road, and
- (ii) the proposed development is not adjacent to residential development, or any other use which may in the opinion of the local Planning Authority be detrimentally affected.

***The car sales area does not have any parking shown on the plans although the application form states the provision of 20 spaces. The Roads and Transportation Division are however satisfied with the proposal and with the existing means of access. The objection received does not come from any immediately adjacent properties but rather one opposite the site. Given the location of the site, it is not considered that the proposed use will be such as to merit refusal on the basis of any adverse impacts.***

## 6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), the planning history, consultations detailed in Section 3 and representations detailed in Section 4.

### East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered 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. In terms of the EALP the application site is located within the town centre and in an established mixed use area and relevant policies comprise RTC18 and RTC19. Policy RTC18 states that proposals for car sales will only be acceptable within town centre boundaries, on miscellaneous development opportunity sites or on land within non-safeguarded industrial sites.

***The site is located at its western portion within the designated town centre and to the east within a mixed use area which includes industrial land. The proposal is compliant with policy RTC18.***

6.3 Policy RTC19 is specifically relevant to the sale and display of motor vehicles and states that such uses will only be acceptable in locations within town centre, miscellaneous development opportunity sites or on non safeguarded existing industrial sites.

***The proposal is considered to be Policy compliant. The site is partially within the town centre boundary and lies adjacent to an established industrial estate comprising small industrial units for letting purposes.***

### Planning History

6.4 The area fronting onto James Little Street appears to have been used in recent years for the sale and display of motor vehicles. There is, however, no record of any planning permission having been granted for such a use.

6.5 Planning permission was granted (Ref: 98/0437/FL for the ground to the rear of 18 High Glencairn Street (consisting the application site in part) for the proposed erection of a timber shed for storage and in 1997 (Ref: 97/0077/FL) for the erection of a storage unit. Both of these application sites comprise part of the land associated with the current application site and part of its northern boundary.

## Statutory Consultations and Representations

6.6 The statutory consultations and representations received are detailed in Sections 3 and 4 of this report. None of the statutory consultations have raised any negative issues that would warrant refusal of the application.

6.7 The letter of objection has been considered in detail and it is not considered that the issues raised would warrant refusal of the application. The site is located within a mixed use area and has been a commercial unit for many years. Whilst there are residential units in close proximity to the application site, these are town centre properties and cannot reasonably expect the same level of amenity as would be prevalent in an homogenous residential area.

## **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 Section 5 of the report, the application is considered to be in accordance with the Development Plan. Given the terms of Sections 25 and 37(2) of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 of the report, there are material considerations relevant to the application and these are supportive of the proposal. The proposed use accords with Policies RTC18 and RTC19 of the East Ayrshire Local Plan. The use satisfies the requirements of the consultees, principally the Roads and Transportation Division and Environmental Health, and the letter of representation whilst noted does not raise any material issues that would justify planning permission being refused.

## **9. RECOMMENDATION**

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

## **CONTRARY DECISION NOTICE**

Should the Committee agree that the application be refused contrary to the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

**Alan Neish**  
**Head of Planning and Building Control**

27 November 2002

(FMF/MS)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application forms and plans.
2. Statutory Notices/Certificates.
3. Consultation Responses and Representations.
4. Adopted Kilmarnock Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. East Ayrshire Local Plan Finalised Version with Modifications.
7. Approved Strathclyde Structure Plan.

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

***Implementation Officer: Dave Morris***

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0848/FL

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Location: 16 James Little Street  
KILMARNOCK

Nature of Proposal: Proposed Change of Use of Land to Car Sales

Name & Address of Applicant: Mr David Ritchie  
Fardalehill House  
KILMARNOCK  
KA2 0DX

Name & Address of Agent:

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DPO's Ref: FMF/MS

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

1. Formal application for planning permission in respect of detailed plans of any proposed new buildings or extensions or alterations (including building materials), and any new accesses shall be submitted to and approved by the Planning Authority before any such development commences.

REASON The approval relates to a change of use only.

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

REASON To safeguard the amenity of the area.

3. The hours of operation of the proposed use shall be restricted to between the hours of 0700 and 2200 hours unless the prior written consent of the planning authority has been obtained.]

REASON In the interests of securing a level of amenity commensurate with the location of the proposal.

## NOTE

1. The applicant is advised that this permission does not include consent for the display of any advertisements that may be necessary under the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. The applicant is strongly advised to make early contact with the Planning and Building Control Division prior to the installation of any advertisements to discuss the requirements for consent.
2. Copies of the consultation responses received from Transco and the Coal Authority are enclosed and the developer is strongly advised to note same and take any required action.

**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.**