

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 21 MARCH 2003**

**02/0459/FL: PROPOSED EXTENSION TO RETAIL UNIT  
AT 2 SIMONSBURN ROAD, KILMARNOCK  
BY ANDREW WALKER**

**REVOCAION OF PLANNING CONSENT 00/0825/FL  
FOR PROPOSED EXTENSION TO RETAIL UNIT  
AT 2 SIMONSBURN ROAD, KILMARNOCK  
BY ANDREW WALKER**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning consent is sought for an extension of 504 square metres to the existing retail unit. The development proposes to infill the two bays of the building to the front and rear. The extension will be constructed to match the existing building in facing brick and profiled sheeting. The proposal will increase the storage and office accommodation by 304 square metres and the retail sales area by 200 square metres. A total of 92 car parking spaces is proposed.

**2. RECOMMENDATION**

2.1 It is recommended that the Committee agree to the voluntary revocation of planning consent 00/0825/FL and to the necessary procedures in that regard being undertaken.

2.2 It is further recommended that planning application no. 02/0459/FL is approved subject to the conditions indicated on the enclosed sheet and that the issue of the Planning Decision Notice be withheld until planning consent 00/0825/FL is formally revoked.

**3. CONCLUSIONS**

3.1 As is indicated in Section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise.

3.2 As is indicated in Section 6 of the report, there are material considerations relevant to this application. Taking the material considerations together it is considered that a departure from the policies of the Adopted Kilmarnock Local Plan can be justified in this instance due to the particular nature of the proposal and history of the site. It is considered that as a previous consent has been granted for an additional retail sales area of 200 square metres and the applicant is willing to agree for that to be revoked, the present proposals are acceptable. The existing building and site has been used as a retail unit for many years. The proposed extension is of a limited size with the retail sales area being restricted to 200 square metres and the remaining 304 square metres used for storage and office accommodation. The proposal would not conflict with the retail and town centre development strategy of EALP as it will not have an adverse impact on the vitality and viability of Kilmarnock Town Centre.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control the application will not require to be referred to the Development Services Committee because there would be no significant breach of 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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**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 a larger application which accords with the East Ayrshire Local Plan Finalised Version with Modifications and is of area significance. The report also seeks agreement to commence the revocation of previous planning consent for an extension to the retail unit on the same application site by the same applicant.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is the catalogue shop and its curtilage at 2 Simonsburn Road in the Loreny Industrial Estate, Kilmarnock. The site is bounded by Ayr Road to the north west, a building accommodating Caprington Business Park to the north east, Security Omega Express to the south east and an area of vacant land to the south west. The application site is 4522 square metres. Access to the site is taken via the existing access on Simonsburn Road.

2.2 **Proposed Development:** Full planning consent is sought for an extension of 504 square metres to the existing retail unit. The development proposes to infill the two bays of the building to the front and rear. The extension will be constructed to match the existing building in facing brick and profiled sheeting. The proposal will increase the storage and office accommodation by 304 square metres and the retail sales area by 200 square metres. A total of 92 car parking spaces is proposed.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division, The Coal Authority and Scottish Water have no adverse comments to make regarding the proposed development.

*Noted.*

3.2 Shortlees Community Council does not exist at the time of writing this report.

*Noted.*

### 4. REPRESENTATIONS

4.1 No representations have been received regarding this application.

### 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 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 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policies 4.3.3, 4.3.4 and 4.2.5. The application site is zoned as an industrial area and is affected by Policy 4.2.5. Most types of industrial developments are allowed in the areas identified as industrial areas.

***The proposed development is in conflict with this policy as it involves an extension to an existing retail unit. The unit, however, has been in retail use for a great many years and the policy is considerably out of date.***

5.3 Policy 4.3.3 allows development involving durable retail floorspace where the proposed development is and will remain subordinate to and directly related to goods specifically manufactured on site or solely involves goods which in the opinion of the Planning Authority are of a type not normally sold in the town centre and shall not exceed 200 square metres in floor space.

Policy 4.3.4 confirms that new retail floorspace which does not accord with Policies 4.3.2 and 4.3.3 above shall not be allowed.

The aim of these policies was to restrict expansion of retail units outwith the town centre which may have a detrimental effect on Kilmarnock Town Centre.

***Whilst the retail element of the extension does not exceed 200 square metres, the extension as a whole does, and it will involve the sale of goods of a type which are sold in the town centre. The proposed development fails to accord with the policies of Adopted Kilmarnock Local Plan.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), National Planning Policy Guidance Note 8 “Town Centres and Retailing”, Planning History and the consultations detailed in Section 3 of the report.

### 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.

6.3 Policy RTC 9 of the EALP states that the Council will be supportive of proposals to extend existing premises used for the purposes detailed in Schedule 5 of the Local Plan where the extension:-

- (i) is of a size and scale appropriate to the premises concerned;
- (ii) does not create a total gross ground floor floorspace of more than 200m<sup>2</sup>; and,
- (iii) is of a high quality design and finish.

Any extension which would result in a total gross ground floor floorspace in excess of 200m<sup>2</sup> will be assessed on its own merits against the provisions of Policy RTC 5, criteria (i) to (vii) as detailed below.

6.4 Policy RTC5 states that with the exception of the types of development detailed in Policy RTC7 below, where developments of the types detailed in Schedule 5 of the Local Plan are proposed in locations outwith town centre boundaries or on sites not identified as being suitable for such purposes as

shown on the Local Plan maps, these will require to be justified and will be assessed against the following criteria:

- (i) their compliance with the sequential approach detailed in Policy RTC 1 above;
- (ii) the extent of the development's catchment area and the effect of the development either individually or cumulatively with similar existing or approved developments on the vitality and viability of town centres, neighbourhood centres or local retail facilities within that catchment area;
- (iii) the accessibility of the site by a choice of means of transport and the effect of the development on overall travel patterns and land use;
- (iv) the compatibility of the use with surrounding land uses;
- (v) the quality of the design and finish of the proposal and its contribution to the environmental quality, character and amenity of the area;
- (vi) the compatibility of the proposal with all other policy objectives of the Local Plan; and
- (vii) the implications that the development would have on existing infrastructure and the trunk and local road networks.

- (i) ***sequential approach – whilst the applicant has been asked to justify the development in terms of the sequential test, the agent states that no alternative town centre locations are available. Having considered the matter it is agreed that opportunities in the town centre are limited. Similarly, there are no sites adjacent to the town centre where the proposals could be accommodated satisfactorily. As a Class 1 use exists on the application site and as the overall sales area will be restricted by condition to 200m<sup>2</sup> and given the recent planning history of the Loreny Industrial Estate and the application site, it is considered that the requirements of the sequential test have been met.***
- (ii) ***The agent has stated that the sale of ex catalogue furniture will have no effect on Kilmarnock town centre and also that a large area will be used for rebuilding furniture. It is not considered that it will affect the town centre significantly. If the additional sales area is restricted to 200m<sup>2</sup> as agreed the vitality and viability of the town centre will not be adversely affected.***
- (iii) ***The site is accessible by both public transport and car and is acceptable to the Roads Division.***
- (iv) ***The development is considered to be compatible with surrounding land uses, mainly light industrial and the "Matalan" Class 1 unit,***

- (v) ***The exterior materials are considered acceptable and the character and amenity of the area will not be detrimentally affected by the proposals***
- (vi) ***The proposal is compatible with the other policy objectives of the Local Plan***
- (vii) ***The Roads Division do not have any objection to the proposals.***

#### NPPG8 “Town Centres and Retailing”

6.4 National Planning Policy Guidance 8 “Town Centres and Retailing” states that the principles underlying the sequential approach apply to proposals to expand or change the use of out of town centre developments, where the proposals are of such a size or type that they would result in a change to their character as determined by the Development Plan.

***The proposed development is such that it will not result in a change of character to the building or area therefore the process of sequential testing is not required for this proposal.***

#### Planning History

6.5 Planning permission was obtained in 1972 for the erection of a garden machinery and leisure product centre. A further application was approved on 23 September 1980 for the formation of a cafeteria.

In July 1983 Comet Group PLC acquired confirmation under a Section 51 of the Town and Country Planning (Scotland) Act 1972 that their use of the building for the sale of retail electrical goods did not require planning consent.

In June 1995 a temporary consent for 2 years was granted for the storage and distribution of industrial gases and the erection of a portacabin on the site adjacent to the existing building on Ayr Road.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

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

#### Revocation of Planning Permission No: 00/0825/FL

7.2 Planning permission was granted on 01 June 2001 for an extension to the retail unit on the same property by the same applicant as the present application under consideration. The previous application restricted by condition the additional retail sales area to no more than 200m<sup>2</sup> with the remaining extension

of 292m<sup>2</sup> utilised for storage and office accommodation ancillary to the main retail use of the building. This consent has not been implemented on site and the applicant has now changed the proposals for the development of the site. The present application will result in an additional 200 square metres of retail floorspace in a different area to the retail sales area approved under the previous consent. Therefore the previous planning consent would require to be revoked, in order to allow a favourable recommendation on the present application. If the previous planning consent is not revoked this would result in 400 square metres of additional retail floorspace which would be contrary to the retail policies of the East Ayrshire Local Plan. Therefore agreement is sought to commence the revocation of planning permission no. 00/0825/FL.

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 of the report, there are material considerations relevant to this application. Taking the material considerations together it is considered that a departure from the policies of the Adopted Kilmarnock Local Plan can be justified in this instance due to the particular nature of the proposal and history of the site. It is considered that as a previous consent has been granted for an additional retail sales area of 200 square metres and the applicant is willing to agree for that to be revoked, the present proposals are acceptable. The existing building and site has been used as a retail unit for many years. The proposed extension is of a limited size with the retail sales area being restricted to 200 square metres and the remaining 304 square metres used for storage and office accommodation. The proposal would not conflict with the retail and town centre development strategy of EALP as it will not have an adverse impact on the vitality and viability of Kilmarnock Town Centre.

## **9. RECOMMENDATION**

**9.1 It is recommended that the Committee agree to the voluntary revocation of planning consent 00/0825/FL and to the necessary procedures in that regard being undertaken.**

**9.2 It is further recommended that planning application no. 02/0459/FL is approved subject to the conditions indicated on the enclosed sheet and that the issue of the Planning Decision Notice be withheld until planning consent 00/0825/FL is formally revoked.**

## **CONTRARY DECISION NOTE**

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

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

12 March 2003  
(PC/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form/Plans.
2. Statutory Notice/Certificates.
3. Consultation Replies.
4. East Ayrshire Council Local Plan Finalised Version with Modifications.
5. Adopted Kilmarnock Local Plan.
6. Adopted Ayrshire Joint Structure Plan.
7. NPPG 8 "Town Centres and Retailing".
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Pamela Clifford on 01563 576772.

***Implementation Officer: Dave Morris***

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

02/0459/FL

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Site of Proposal:	2 Simonsburn Road Loreny Industrial Estate KILMARNOCK
Nature of Proposal:	Proposed Extension to Retail Unit
Name & Address of Applicant:	Andrew Walker 2 Simonsburn Road Loreny Industrial Estate KILMARNOCK KA1 5LA
Name & Address of Agent:	Robert G Lang RIBA ARIAS 25 Bellevue Crescent AYR KA7 2DP

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DPOs Reference: PC/MMM

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

1. Details/samples of the proposed facing brick and metal sheeting shall be submitted to and approved by the Planning Authority before any development commences on the site.

REASON In the interests of visual amenity.

2. Notwithstanding the submitted details, the additional retail sales area created within the proposed extension shall be no more than 200m<sup>2</sup>. The remaining 304m<sup>2</sup> shall be utilised for storage and office accommodation ancillary to the main retail use of the building.

REASON To ensure the proposed development does not impact on the vitality and viability of Kilmarnock Town Centre.

3. Notwithstanding the submitted plans, consent is not hereby granted for 2 metre chain link fence along the boundary of the site. Details of a boundary feature along Ayr Road and Simonsburn Road incorporating the use of facing brick shall be submitted to and approved by the Planning Authority prior to the commencement of development and shall be constructed on site prior to the use of the extension approved under the planning consent.

REASON The development is located on one of main approaches to Kilmarnock.

4. The area identified as car parking on the approved plans shall be used for the parking of cars and at no time for the storage or sale of goods or materials.

REASON To prevent the sale/storage of goods and materials in the car park

NOTES:

1. The developer shall satisfy himself to the stability of the site for construction purposes.
2. No mechanical excavation shall take place within 500 mm of Transco Plan.
3. A further separate application for Consent to Display an Advertisement will be required for any signs to be erected on site.

**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.**