

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 08 NOVEMBER 2002

**02/0647/FL: PROPOSED CHANGE OF USE FROM BEAUTY SALON TO
HOT FOOD CARRY OUT PREMISES INCLUDING EXTRACT DUCT AND
RAMP
AT 6-8 BONNYTON ROAD, KILMARNOCK
BY MR J CHAU**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought to change the use of a former beauty salon to hot food carry out premises. An extract duct is proposed to the rear of building and a disabled access ramp is proposed at the front access to the shop. No other external alterations are proposed with the shopfront and roller shutter remaining as existing. A parking area is proposed to the rear of the hot food takeaway.

1.2 The applicants agent has submitted a statement addressing issues such as the Roads Division's concerns regarding unauthorised parking and the concerns of the objectors in terms of opening hours, refuse provision and anti-social behaviour.

1.3 The applicants believe that it would be impossible to park outside the premises due to the proposal for the raised kerb and the traffic island. There will be parking spaces available at the rear of the premises. A carry out restaurant has a very sporadic pattern of vehicle movement which is different from a drive-in restaurant where there could be many cars parked for several hours at a time. The applicant has submitted digital photographs taken at 6.30pm on Saturday, 22 September 2002 which is one of the busiest times of the week for a carry out restaurant. These photographs shows that the surrounding streets are largely empty of cars and there is adequate room for the parking of cars. They submit that, with the proposed layout, parking outside the premises would be impossible with more than adequate on-street parking within 50 yards. They consider that there is no parking problem.

1.4 The proposal is to re-locate the New Champagne takeaway from John Finnie Street to Bonnyton Road. The applicant is happy to confirm that the opening hours would be limited to Sunday - Thursday, 4.30pm – 11.30pm and Friday - Saturday 4.30pm – 12.00pm as they do not wish to and have never

sought to attract the early morning drunken clientele. The proposed carry out restaurant is immediately next to a public house and public house/restaurant .

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated in paragraph 5.2 of the report the application is in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 There are material considerations relevant to this application. The proposed use is considered to accord with Policy RTC 15 of EALP. The objector's concerns regarding smell, odour, refuse provision, noise and disturbance can be alleviated by a satisfactory ventilation and refuse system and controlling the hours of opening, which can be addressed by attaching conditions to any grant of planning permission. Therefore it is considered the proposed use can be accommodated on site without significant detriment to residential amenity. The erection of a pedestrian barrier will discourage patrons using the takeaway from parking in front of the hot food takeaway. If patrons did nevertheless choose to park at this location and thereby cause an obstruction, then this would be a matter for the Police to address.

3.3 There are sufficient car parking facilities in the immediate area to allow patrons using the takeaway to park their cars without parking immediately in front of the takeaway. The property has been used for commercial purposes for many years with the last use being a beauty salon. The property could be changed to a Class 1 convenience store without the requirement for planning consent. Such a use could operate well into the evening and would potentially generate similar short stay parking activity to that associated with a hot food takeaway. Such activity would not be subject to any planning controls and would fall under the remit of the Police if illegal parking was to occur.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control it 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.

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 11 NOVEMBER 2002

**02/0647/FL: PROPOSED CHANGE OF USE FROM BEAUTY SALON TO
HOT FOOD CARRY OUT PREMISES INCLUDING EXTRACT DUCT AND
RAMP
AT 6-8 BONNYTON ROAD, KILMARNOCK
BY MR J CHAU**

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. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a single storey detached unit and its curtilage; located to the south of Bonnyton Road. The site is surrounded to the north by a vacant development site which has already been granted outline planning consent for a superstore and petrol filling station, to the west by the Kadikoi and Memory Lane Public House, to the east by single storey terraced houses and to the south by a car park and garage site and two storey terraced houses.

2.2 **Proposed Development:** Full planning consent is sought to change the use of a former beauty salon to hot food carry out premises. An extract duct is proposed to the rear of building and a disabled access ramp is proposed at the front access to the shop. No other external alterations are proposed with the shopfront and roller shutter remaining as existing. A parking area is proposed to the rear of the hot food takeaway.

2.3 The applicants agent has submitted a statement addressing issues such as the Roads Division's concerns regarding unauthorised parking and the concerns of the objectors in terms of opening hours, refuse provision and anti-social behaviour.

2.4 The applicants believe that it would be impossible to park outside the premises due to the proposal for the raised kerb and the traffic island. There will be parking spaces available at the rear of the premises. A carry out restaurant

has a very sporadic pattern of vehicle movement which is different from a drive-in restaurant where there could be many cars parked for several hours at a time. The applicant has submitted digital photographs taken at 6.30pm on Saturday, 22 September 2002 which is one of the busiest times of the week for a carry out restaurant. These photographs shows that the surrounding streets are largely empty of cars and there is adequate room for the parking of cars. They submit that, with the proposed layout, parking outside the premises would be impossible with more than adequate on-street parking within 50 yards. They consider that there is no parking problem.

2.5 The proposal is to re-locate the New Champagne takeaway from John Finnie Street to Bonnyton Road. The applicant is happy to confirm that the opening hours would be limited to Sunday - Thursday, 4.30pm – 11.30pm and Friday - Saturday 4.30pm – 12.00pm as they do not wish to and have never sought to attract the early morning drunken clientele. The proposed carry out restaurant is immediately next to a public house and public house/restaurant .

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division initially registered an objection as the change of use was likely to result in an increase in on-street parking at this location which would have an adverse effect on the operation of the new roundabout proposed for the adjacent development site and therefore would be detrimental to road safety.

The applicant has indicated a parking area to the rear and a large car park is proposed for the adjacent superstore. Currently, the junction improvements, be they in the form of a roundabout or revised traffic lights, remain to be finalised. However, following further discussions, the Roads Division have agreed to withdraw their objection to the proposed development provided a pedestrian barrier is erected along the edge of the footway from the junction of North Hamilton Street with West Langlands Street and to the access road between 6-8 and No. 10 Bonnyton Road. The pedestrian barrier would discourage patrons using the takeaway from parking in this location in the immediate vicinity of the new junction. Notwithstanding this, any car parking at this location which causes an obstruction on the public road would become a Police matter.

3.2 East Ayrshire Council Department of Homes and Technical Services and Bonnyton Community Council have not responded to their consultation letters at the time of writing this report.

Noted.

3.3 East Ayrshire Council Environmental Health and Waste Management have no objection subject to the following comments:-

- a) The ventilation extraction system to be installed should not cause any nuisance to adjacent properties when in use.
- b) Suitable provision to be made for the secure storage of refuse at the rear of the premises pending removal.

The requirements of Environmental Health can be met by attaching conditions to any grant of planning consent.

3.4 Scottish Environment Protection Agency have no adverse comments to make regarding the proposed development.

Noted.

3.5 Scottish Water have indicated that it will be necessary for the applicant to install a grease trap on the drainage system within the property before discharge to the public sewer.

A condition can be attached to any grant of planning consent to meet the requirements of Scottish Water.

4. REPRESENTATIONS

4.1 Three letters of representation and a petition signed by 17 people have been received opposing the proposed development. Their grounds of objection are as follows:-

4.2 Inappropriate level of food smells in what is largely a residential area with mostly pensioners housing directly adjacent to the proposed development .

Environmental Health have not raised any objection to the proposed development. A filtration system could be incorporated into the flue system to minimise odour emissions.

4.3 This is an area where all residents are elderly and a business of this kind would be very detrimental to the area in general.

The proposed use is to be sited along the busy Bonnyton Road. It is proposed adjacent to two public houses and the development site opposite has approval in principle for a superstore and petrol filling station. The application site has been used for commercial purposes for many years.

4.4 This type of shop would be open late into the evening and early morning, therefore resulting in a noise problem.

The proposed use is to be located in a mixed use area with a number of residential properties in close proximity. The applicant has stated that they would be happy to restrict the opening hours to 4.30pm – 11.30pm Sunday – Thursday and 4.30pm – 12.00pm Friday and Saturday.

4.5 There would be a vast increase in the level of rubbish discarded in the streets which would attract vermin. People who are drunk and cannot eat their meal once bought, normally just throw their meal in the street and walk on with no respect for the environment and the discarded meal is an attraction for the mice/rats/seagulls. Nobody can say this does not happen as evidence is lying in the streets in the town centre and outlying areas every weekend.

The applicant states that they would control any litter problem which may occur in the vicinity of the shop. They do not envisage that this will be a problem as the hot food takeaway would close before pubs and clubs empty. Furthermore a condition can be attached to any grant of planning consent requiring the applicant to provide litter receptacles.

4.6 The back of the takeaway is out of sight to the main road which can encourage the owners to be lax in keeping the area tidy ie vegetable oil cans, cooked waste, rubbish bags and possibly rotting meat.

The premises will be regularly inspected by Environmental Health to ensure that it is being operated correctly. A condition can be attached to any grant of planning consent to provide details of a refuse storage scheme for the premises.

4.7 There will be an environmental problem whereby the outlook at present is looking at a small building and back area in a state of disrepair and if it gets turned into a takeaway the ventilation needed to eliminate the cooking fumes should have the proper filter system and be high enough which make would the outlook an eyesore.

The applicant is proposing a ventilation duct on the rear elevation. The design of the extract duct is not considered to be detrimental to the building or the surrounding area. The re-use of the existing building will improve the appearance of the building.

4.8 Undesirables will use the takeaway as it is slightly out of the town centre and has a garage area at the back where residents park cars which would lead to a temptation to steal, break-ins or drug dealing and generally hanging about.

This is a police matter and it is not a material planning consideration.

4.9 The takeaway does not lead to a heavy populated area as Bonnyton is the smallest district in the town and is populated primarily by elderly people who have no interest in coming down between 10.00pm and 2.00am to buy takeaways when it can be ordered by telephone from any takeaway in the town.

The proposed takeaway will provide a facility not only for the immediate area but for the wider area. A condition can be attached to any grant of planning consent restricting the hours of opening of the takeaway.

4.10 There are already too many takeaways in the centre of the town, the number of places within 5 minutes walk of each other is 8. There are 6 restaurants within the town centre only 10 minutes walk which also operate a carry out service. The proposal for a takeaway on Bonnyton Road will only add to the number of takeaways within 5 minutes walk of the town centre bringing problems of rubbish, vegetable oil cans, discarded containers and anti-social behaviour.

The over-provision of hot food takeaways is not in itself a material planning consideration, however their impact on residential amenity is a consideration. It is not considered that the use of the existing premises as a hot food takeaway would be significantly detrimental to residential amenity if adequate controls are imposed. The other takeaways stated by the objector are of a sufficient distance away from the proposed takeaway such that there would be no combined adverse impact on residential amenity.

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 Local Plan the proposal would fall to be considered against this document and its associated policies. Policy 4.3.6

encourages the provision of non-retail commercial use in Bonnyton where the use does not detrimentally affect any adjoining activities. The reason behind this policy is not to prejudice the existing shopping developments in the areas stated and if established may reduce the number of properties likely to remain vacant.

It is considered that the proposed use can be accommodated on site without having an adverse impact on adjoining uses. Litter, noise and odour can be controlled by attaching adequate conditions to any grant of planning consent.

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), the consultation responses and representations received both of which are addressed in Sections 3 and 4 of this report.

East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Council has agreed that the EALP should be considered as a prime material consideration. Policy RTC 15 of EALP is relevant which states that development proposals for public houses and hot food takeaways may be considered acceptable uses within town centres and may be considered appropriate in other locations where the proposals.:

- (i) meet the Council's design and layout policies;
- (ii) meet with the requirements of the Council as Roads Authority;
- (iii) do not have a detrimental effect on the amenity of adjacent properties by reason of noise, litter, odour or any other disturbance; and,
- (iv) are compatible with surrounding land uses.

The proposed use is considered to be compatible with criteria (i), (iii) and (iv) of the above policy, with the use being able to be accommodated on site without detriment to adjacent properties and being compatible with surrounding uses. Litter, noise and odour can be controlled by attaching adequate conditions to any grant of planning consent. By erecting a pedestrian barrier along the edge of an appropriate length of footway the development would be acceptable to the Roads Division and criterion (ii) will be met.

Planning History

6.3 01/0560/OL: Proposed Erection of 85,000 sq ft Food Superstore and Petrol Filling Station with Environmental Improvements and Flatted Residential

Development with Heritage Centre at West Langlands Street, West George Street, North Hamilton Street, Park Street, Langlands Street and Brae, Garden Street, Portland Street and John Finnie Street was granted outline planning consent on 25 October 2002. This proposal is directly opposite the application site and will have a large car park associated with the use.

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 in paragraph 5.2 of the report the application is in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 There are material considerations relevant to this application. The proposed use is considered to accord with Policy RTC 15 of EALP. The objector's concerns regarding smell, odour, refuse provision, noise and disturbance can be alleviated by a satisfactory ventilation and refuse system and controlling the hours of opening, which can be addressed by attaching conditions to any grant of planning permission. Therefore it is considered the proposed use can be accommodated on site without significant detriment to residential amenity. The erection of a pedestrian barrier will discourage patrons using the takeaway from parking in front of the hot food takeaway. If patrons did nevertheless choose to park at this location and thereby cause an obstruction, then this would be a matter for the Police to address.

8.3 There are sufficient car parking facilities in the immediate area to allow patrons using the takeaway to park their cars without parking immediately in front of the takeaway. The property has been used for commercial purposes for many years with the last use being a beauty salon. The property could be changed to a Class 1 convenience store without the requirement for planning consent. Such a use could operate well into the evening and would potentially generate similar short stay parking activity to that associated with a hot food takeaway. Such activity would not be subject to any planning controls and would fall under the remit of the Police if illegal parking was to occur.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control it 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

31 October 2002
(PC/MMM)

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Representation.
5. Adopted Kilmarnock Local Plan.
6. East Ayrshire Local Plan Finalised version with Modifications.
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.
9. Planning Application No: 01/0560/OL.

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

Implementation Officer: Dave Morris

020647FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

02/0647/FL

Site of Proposal:	6-8 Bonnyton Road KILMARNOCK
Nature of Proposal:	Proposed Change of Use from Beauty Salon to Chinese Hot Food Carry out Premises including Extract Duct and Ramp
Name & Address of Applicant:	Mr J Chau 83 Wallacetown Avenue KILMARNOCK KA3 6DS
Name & Address of Agent:	W I Munro Chartered Architects 1 Seaford Street KILMARNOCK KA1 2BZ

DPOs Reference: PC/MMM

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

1. The use hereby approved shall operate only between the hours of 4.30pm – 11.30pm Sunday to Thursday, and 4.30pm – 12.00pm (Midnight) Friday and Saturday.

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

2. Notwithstanding the approved plans details of a system for the disposal of refuse including the provision of litter bins both inside and outside the premises shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented thereafter according to the approved details prior to the opening of the hot food carry out premises on site.

REASON In the interests of public safety and residential amenity.

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

REASON To safeguard the residential amenity of the area.

4. Prior to the commencement of any works on site, the developer shall submit for approval by the Planning Authority full specifications of the following details with regard to the ventilation system together with details of its maintenance. The ventilation system shall not at any time discharge fumes below eaves level and as approved shall be installed prior to the hot food takeaway being brought into use.

- a) Suitable flue liner to be installed with suitable rainwater protection provided;
- b) Details of a suitable, removable and cleanable grease filter to be provided and used at all times;
- c) A suitable, removable and cleanable odour absorbing filter to be provided and used at all times;
- d) Details of the electric motor powered fan which is to be designed and located such as not to cause any noise nuisance to residents adjacent to the unit.

REASON In order to ensure that the property has installed an adequate ventilation system and in the interests of the amenity of neighbouring properties.

5. Notwithstanding the approved plans, details of a refuse scheme for the hot food carry out premises including the means of refuse storage and disposal shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented thereafter according to the approved details.

REASON In the interests of public safety.

6. A grease trap shall be installed on the drainage system within the property to the satisfaction of the Planning Authority.

REASON In the interests of public safety and so as not to prejudice the effective operation of the public sewer.

7. Prior to the opening of the hot food carry out premises, a pedestrian barrier shall be erected along the edge of the footway from the junction of North Hamilton Street with West Langlands Street to the access road between 6-8 and 10 Bonnyton Road. Details of the exact location height and design of the pedestrian barrier shall be submitted to and approved by the Planning Authority in writing prior to the commencement of development on site.

REASON To prevent on-street parking in the front of the hot food carry out in the interests of road safety.

**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