

## EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 1 AUGUST 2002

**01/0445/OL: PROPOSED EXTENSION AND ALTERATION TO SHOPPING CENTRE, EXTENSION TO FOODSTORE RELOCATION OF PETROL STATION AND UNIT SHOPS AND CONSTRUCTION OF THEME RESTAURANT AND DRIVE THRU RESTAURANT AT WESTERN ROAD/ GLASGOW ROAD KILMARNOCK BY COUNTY PROPERTIES (NORTHERN) LTD**

### EXECUTIVE SUMMARY SHEET

#### 1. DEVELOPMENT DESCRIPTION

1.1 The applicant's submission for outline consent comprises the following elements:

- **An extension of the existing foodstore**
- Existing Gross Floorspace of foodstore – 3,200 sq. metres (34,400 sq. ft)
- Proposed Gross Floorspace of foodstore - 4,645 sq. metres (50,000 sq. ft)
- Gross Floorspace Increase - 1,445 sq. metres (15,600 sq. ft.)
  
- Existing Net Sales Area of Foodstore – 1,920 sq. metres (20,660 sq. ft.)
- Proposed Net Sales Area of Foodstore – 2,787 sq. metres (30,000 sq. ft.)
- Net Floorspace Increase – 867 sq. metres (9,340 sq. ft.)
  
- **7 Unit Shops of 1,000 sq. ft. (93 square metres) each in area resulting in an overall net increase of 20 square metres in floorspace**
- **Relocation of the Petrol Filling Station**
- **Drive-thru Restaurant**
- **Theme Restaurant of 10,000 sq. ft.**

Accompanying documents with the application include

- a Retail Statement
- a Transport Assessment
- a Travel Plan/Accessibility Audit

These are summarised below.

1.2 Outline planning consent is sought for an extension to the existing foodstore to increase the gross floorspace by 1,445 square metres (15,600 sq. ft.) and the net sales floorspace by approximately 867 square metres (9,340 sq. ft). The applicant has stated that the existing store layout is somewhat dated in terms of modern food retail space and has relatively poor

circulation space. The customer facilities are particularly poor. The proposed extension will allow the existing Tesco store to be reconfigured to allow for additional floorspace to be devoted to sales as well as the provision of additional 'in-store facilities' such as improved toilets, baby changing facilities and possibly a coffee shop. It will also allow changes internally by enabling an increase in the width and improved layout of aisles thus significantly improving internal circulation. The remainder of the shopping centre, petrol filling station and existing shops are dated and in need of improvement, with the current layout considered poor and would benefit from redesign. It is proposed to site a new petrol filling station to the rear of the Howard Park Hotel adjacent to Glasgow Road with a new restaurant proposed adjacent to the roundabout between Western Road and Glasgow Road. The existing 6 unit shops would be demolished to allow the extension to the supermarket. Seven unit shops of 1,000 sq. ft. each in area are proposed to the rear of the existing supermarket. No changes are proposed to the building of the existing Howard Park Hotel as part of this application. An area adjacent to the Western Road has been identified for community use in the indicative plans. No details are available at this stage however the applicant has indicated it may be used in association with the theme bar/restaurant as for example as a children's play area.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets and that the issuing of the Planning Decision Note be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants on the matters set out in principle in Section 7 of the report.**

## **3. CONCLUSIONS**

3.1 As indicated at Section 5 of the report the proposal is considered to be contrary to the Adopted Local Plan and Approved Ayrshire Joint Structure 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. The proposal is considered to be contrary to the Development Plan for the following reasons:

- The site lies outwith the town centre in the Adopted Local Plan
- The proposed development is contrary to Policy L8 of Ayrshire Joint Structure Plan and policies of the Adopted Kilmarnock Local Plan

3.2 Further material consideration do not favour the proposal

- The proposal is contrary to Policy RTC 3 and RTC 7 as the proposed uses should be directed to the town centre.

3.3 The following material considerations however favour the proposal.

- The proposal involves a modest extension to an existing foodstore and associated developments which are located within an existing neighbourhood shopping centre which will not change its character and accordingly meet the requirements of NPPG 8 (para 16)
- The Finalised East Ayrshire Local Plan with Modifications is more aligned with NPPG 8 and the Approved Structure Plan and although the supermarket is located out of centre, the proposal to extend the existing supermarket within an existing neighbourhood shopping centre by 1,465 square metres is considered to be acceptable in terms of Policy RTC 5 as it will not have a significant impact on the vitality and viability of the town centre
- It will result in a qualitative improvement in retail floorspace by enabling wider aisles, coffee shop and crèche facilities for the foodstore
- The proposal does not raise any strategic concerns
- It will provide an improved retail facility and new leisure facilities adjacent to residential areas where population has grown significantly in recent years
- The theme restaurant, drive-thru restaurant and petrol filling station are considered to be complementary uses to the existing neighbourhood shopping centre and are in accordance with Policy RTC 5 and RTC 16 of Finalised East Ayrshire Local Plan
- The proposal will upgrade a dated neighbourhood shopping centre
- It provides an excellent opportunity to provide retail and leisure facilities in a sustainable way
- The development will result in the introduction of new footpath links and improved bus service

3.4 On balance and within the context of Section 25 of the Town and Country Planning (Scotland) Acts the proposal represents a departure from the Development Plan which is acceptable within the context of the Development Plan and other material considerations.

**Stephen Chorley**  
**Director of Development Services**

**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 Director of Development Services**

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Development Services Committee under the scheme of delegation as it constitutes a larger application and is subject to objection.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is the Western Road Shopping Centre and a field to the rear of the existing centre. The site comprises the existing Tesco Store, 6 shop units, petrol filling station, the Howard Park Hotel and car parks to the front and rear. The application site is surrounded to the north and west by residential properties, to the south by Western Road and residential properties on Mure Avenue, to the east by Glasgow Road, Rowallan Creamery and residential properties.

2.2 **Proposed Development:** The applicant's submission for outline consent comprises the following elements:

- **An extension of the existing foodstore**
- Existing Gross Floorspace of foodstore – 3,200 sq. metres (34,400 sq. ft)
- Proposed Gross Floorspace of foodstore - 4,645 sq. metres (50,000 sq. ft)
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- **Drive-thru Restaurant**
- **Theme Restaurant of 10,000 sq. ft.**

Accompanying documents with the application include

- a Retail Statement
- a Transport Assessment
- a Travel Plan/Accessibility Audit

These are summarised below.

2.3 Outline planning consent is sought for an extension to the existing foodstore to increase the gross floorspace by 1,445 square metres (15,600 sq. ft.) and the net sales floorspace by approximately 867 square metres (9,340 sq. ft.). The applicant has stated that the existing store layout is somewhat dated in terms of modern food retail space and has relatively poor circulation space. The customer facilities are particularly poor. The proposed extension will allow the existing Tesco store to be reconfigured to allow for additional floorspace to be devoted to sales as well as the provision of additional 'in-store facilities' such as improved toilets, baby changing facilities and possibly a coffee shop. It will also allow changes internally by enabling an increase in the width and improved layout of aisles thus significantly improving internal circulation. The remainder of the shopping centre, petrol filling station and existing shops are dated and in need of improvement, with the current layout considered poor and would benefit from redesign. It is proposed to site a new petrol filling station to the rear of the Howard Park Hotel adjacent to Glasgow Road with a new restaurant proposed adjacent to the roundabout between Western Road and Glasgow Road. The existing 6 unit shops would be demolished to allow the extension to the supermarket. Seven unit shops of 1,000 sq. ft. each in area are proposed to the rear of the existing supermarket. No changes are proposed to the building of the existing Howard Park Hotel as part of this application. An area adjacent to the Western Road has been identified for community use in the indicative plans. No details are available at this stage however the applicant has indicated it may be used in association with the theme bar/restaurant as for example as a children's play area.

2.4 The Retail Statement submitted by the applicant assesses the proposed development against relevant national and local planning policy. The net sales increase is approximately 867 sq. metres (9,340 sq. ft.) an increase of approximately 45% of the present net sales floorspace. It is a possibility that some of the net sales area increase will be devoted to non-retail sales for use as a coffee shop. However, the statement assumes that the net increase is devoted entirely to retail sales. The applicant states that the existing supermarket is a busy store and there is pressure placed on the limited circulation space and checkouts at peak periods. The store is trading well compared against similar sized stores. The applicant believes that the proposed extension would allow a turnover increase of approximately £8.85m some of the additional turnover will be spread across the existing floorspace as aisle widths are rearranged and greater circulation space introduced. It is likely that some of the additional floorspace will be devoted to non-convenience type goods such as kitchen utensils. The applicant states that

the impact of the proposed extension on town centre stores would be 6.6% which is based on a turnover figure for town centre stores of £34 million. The applicant has also considered the impact of the proposed extension on ASDA, Safeway and Safeway at Stewarton and concluded that it will not adversely affect the trading viability of these individual stores.

2.5 The Transport Assessment addresses the impact the proposed development will have on the surrounding road network. The main public access to the site will be from the Glasgow Road/Western Road roundabout junction, with an improved access. Service and public access to the petrol filling station will be from a new access on Glasgow Road.

2.6 A Travel Plan/Accessibility Audit (Green Transport Plan) has been submitted for the proposed development which offers the opportunity for staff and shoppers to travel to the store by more sustainable means of transport. It recognises that the proximity of the site to housing areas of Onthank, Southcraig and the opposite side of Western Road means that the site is within walking/cycling distance. Accessibility by foot would be enhanced by the provision of footpath links to Southcraig, Cumbrae Drive and Heston Place and the provision of a signal crossing facility on Western Road from the housing areas on the opposite side of Western Road. Links to the site from the proposed cycle lanes should be formed by way of local widening of footways to accommodate cyclists, bypassing the roundabout. The proposed footpath would be wide enough to accommodate a shared footpath/cycle path. The report believes that public transport can only be increased through negotiation with the local service provider. This would involve the provision of an additional stop preferably within the site or close by on Western Road and would at least involve improved links and crossing facilities to the existing stops on Glasgow Road. Consideration could be given to providing a local delivery service for non-car based customers for all retail services on the site. An informal car sharing data base could be established by way of information posted on a staff notice board.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council Roads and Transportation Division have no objections provided that the measures identified in the Travel Plan are implemented and other car trip reducing measures such as:

- The precise location of the signalised pedestrian/cycle crossing
- Internal layout to be suitable to allow buses to enter the site and a bus stop and shelter provided within the site for that purpose
- A contribution for a hopper bus service or extended local service linking the site to the public transport interchanges and local residential areas
- Direct footpath links to the site from the existing bus stops on Glasgow Road with an appropriate crossing facility on Glasgow Road
- Footway and cycleway links to Cumbrae Drive and to Kingsford Place
- Secure cycle parking within the site and appropriate links provided to the cycleways on Western Road and Cumbrae Drive

- Appropriate provision for taxis
- Provision for appropriate public transport timetable displays

A detailed Travel Plan will be required to be submitted for approval and shall include survey programmes for staff and customers and identify measures to encourage non-car travel.

With regard to their responsibility for flooding the Roads Division have commented that if the porous car park operates as designed, a fail safe mechanism in the form of an upstand will be required. They suggest a freeboard of 100mm minimum will be required adjacent to the existing watercourse to prevent any direct surface water run off (no direct connections to the watercourse). Any proposals passed to SEPA would be for agreement in principle only and not for approval. Copies of all proposals should be submitted to the Roads Division for consideration. Headwalls and trash screen should take cognisance of CIRIA Report 168 Culvert Design.

***(i) Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads Division regarding a detailed Green Travel Plan to be submitted for approval and all measures arising from it shall be installed prior to the opening of the supermarket extension. With regard to making a financial contribution to a localised bus service, this can be secured through a Section 75 Agreement should planning consent be granted for the proposed development. The applicant has agreed to make a financial contribution to an improved bus service.***

***(ii) With regard to flooding issues, the Roads Division have no objection in principle, but require further details of a fail safe mechanism in the form of an upstand to be submitted at the detailed stage. This can be addressed by attaching a condition to any grant of planning consent.***

***(iii) The treatment and discharge of surface water by Sustainable Urban Drainage techniques can be addressed by attaching a condition and notes to any grant of outline planning consent.***

3.2 Scottish Water have commented that there is a public sewerage system to which a connection may be made and the developer should be satisfied that relative levels are such as will allow the development to be connected at a reasonable gradient. Their permission should be sought to connect to the public sewerage system and a totally separate drainage system will be required. Sustainable Urban Drainage Systems should be employed on the surface water drainage system.

***It is recommended that notes and conditions are attached to any grant of planning consent advising the applicant of Scottish***

### ***Water's requirements in terms of Sustainable Urban Drainage Systems.***

3.3 Scottish Environment Protection Agency have no objections provided the drainage arrangements at the site will be to their satisfaction. All foul drainage including surface water from the petrol filling station should connect to the public sewer and Scottish Water should be contacted in this regard and written confirmation obtained indicating that any additional load can be accommodated within the current sewage infrastructure and will not cause the existing consented storm overflows to operate prematurely. They recommend that a condition be attached to any grant of planning consent requiring the applicant to treat surface water in accordance with the principles of SUDS.

They require that the existing burn at the northern boundary is not culverted in accordance with the principles included in NPPG 14 "Planning and Natural Heritage" which promotes watercourses as "both valuable landscape features and wildlife habitats."

The proposal to move the petrol filling station may have an impact on the future intended use of that area as a restaurant with associated car parking. It is possible that previous uses at the site as a garage may have resulted in land contamination although no details have been received relating to the site history or its condition. SEPA expect that a risk assessment be undertaken as described in PAN 33 which should consider whether or not contaminants are entering or are likely to enter controlled waters and at what concentration. The overall objective of the risk assessment should be to determine whether or not any contamination present would constitute pollution of controlled water (and indeed harm to other receptors) so that any required remedial action can be undertaken prior to redevelopment. It is desirable that any investigation or remedial works should be at least sufficient to ensure that the site conditions once developed would not constitute contaminated land under Part 11A of the Environmental Protection Act 1990.

***The applicant has no plans to culvert the watercourse along the northern boundary of the site. The requirement of SEPA regarding a Risk Assessment to address whether or not any contaminants are present and the required remedial action to be undertaken prior to any works on site and the treatment and discharge of surface water by Sustainable Urban Drainage techniques can be addressed by attaching conditions and notes to any grant of outline planning consent. Scottish Water have not objected to this development, however a condition can be attached to any grant of planning consent requiring that no works start on site until such time as the applicant can provide written confirmation from Scottish Water that it is satisfied with the proposed drainage arrangements. This will address SEPA's comments.***

3.4 Scottish Power, Transco, the Coal Authority have no adverse comments to make regarding the proposed development.

**Noted.**

3.5 East Ayrshire Council Environmental Trading Standards Service have no objections in principle to the proposed development. They advise that they will comment further once details are available for the decommissioning of the existing petrol filling station and development of the new filling station.

**Noted.**

3.6 East Ayrshire Council Environmental Health consider that the relocation of the petrol filling station towards the north east corner of the site is a significant improvement and would have no objections as such to this location.

The proposed theme restaurant is now in the south west corner of the development site which to a degree could replace one potential problem with another, given the proximity of this building to existing housing in Lewis Drive. To an extent any potential problems could be controllable by licensing powers (hours of opening for example). This particular aspect of the development is likely to arouse concerns if not objections from residents close by who might be worried about the disturbance impact on them. Whilst the operation of the premises need not necessarily result in any problems, the potential for nuisance arising through noise is a matter which will require to be addressed. Whilst noise disturbance can arise from a number of sources including patrons coming and going, the aspects of particular relevance to this service would be from music/entertainment noise from the premises, noise from plant and equipment (which should be borne in mind when designing plant layout etc for the extended supermarket) and other noise generated from work activities. Some indication of the nature of bar/restaurant operations might go some way towards alleviation of concerns in this regard. Satisfactory controls should be exercised by the developer to prevent any dust or smoke problems from arising during site activities and noisy construction works should be restricted to day shift operation.

***The indicative site layout plan has been amended whereby the petrol filling station is proposed adjacent to Glasgow Road. It is now proposed to site the theme restaurant along the western boundary of the site, although the final location of these proposed uses will be determined at the reserved matters stage. The applicant has been approached to give further details of the nature of the theme restaurant although these details are not available at this time. The theme restaurant is proposed to be licensed. A certain level of noise and distance already exists in this area with the existing uses such as supermarket, hotel, takeaway and bar. It is considered that the theme restaurant could be located and designed to minimise its impact on the neighbouring residential properties and the location and design of***

***the theme restaurant will be determined at the reserved matters stage. It is however recommended that a condition is attached to any grant of outline consent requiring a noise assessment to be submitted and approved and any measures arising from the assessment to be incorporated within the detailed design and layout of the various elements of the approved development.***

3.7 East Ayrshire Council Economic Development Division would support the application as it provides additional jobs adjacent to an area where there is currently high unemployment, increases customer choice in the locality complementary to the house building in the area and provides back up support to the rapidly expanding Rowallan Business Park which will soon be supporting over 1,000 jobs.

***Noted.***

3.8 Ayrshire Joint Structure Plan and Transportation Committee have no objection to the proposed development. The scale of the development does not require an assessment against Policy L9 of the Structure Plan. The additional components of the proposal, theme restaurant, drive-thru restaurant and relocation of the filling station does not raise issues of strategic concern. Further consideration of how this development can be integrated with the adjoining housing by the provision of safe pedestrian routes and dedicated cycle routes and parking, should be given in light of the need to promote opportunities for non-car use.

***Noted, the promotion of sustainable travel patterns is addressed in Sections 3.1 and 6.6 of the report.***

3.9 Strathclyde Police have commented that the area in which the proposed alterations are located is classed as one of high crime with numbers higher than the average for the rest of Kilmarnock. The current development is confusing to the occasional visitor without proper structure. The proposed changes improve this situation. There is more structure and cohesion to the area as a whole, with the individual car parks being located adjacent to the buildings they serve allowing better 'ownership'.

***Noted.***

3.10 Fenwick Community Council and North West Kilmarnock Community Council have not responded to their consultation letter at the time of writing of this report.

***Noted.***

## 4. REPRESENTATIONS

4.1 There are 15 objectors and 1 petition on behalf of 7 people have been received objecting to the proposed development. The main points of objection to the proposed development are summarised as follows.

4.2 The proposed development is situated in an out-of-centre location and more suitable sites exist within or on the edge of Kilmarnock town centre and therefore the applicant has failed to adopt a robust sequential approach to site selection. Consequently, the application does not comply with NPPG8, Policy L8 of the Ayrshire Joint Structure Plan and Policies RTC1 and RTC 5 of Finalised East Ayrshire Local Plan.

***The assessment of the proposed development against the sequential approach has been undertaken in Section 6.4.***

4.3 Structure Plan Policy L8 and Local Plan Policy RTC 5 require out-of-centre development to be assessed in terms of the effect of the development either individually or cumulatively with similar or existing developments on the vitality and viability of town centres.

***The impact of the proposed development on the vitality and viability of the town centre has been assessed in Sections 5 and 6 of the report.***

4.4 There is a brief assessment regarding capacity (based on the relevant technical report of the Ayrshire Joint Structure Plan) and there is no specific impact assessment.

***The applicant was not required to submit a full Retail Impact Study as the gross floorspace of the proposed extension was less than 1,500m<sup>2</sup> and therefore it is not classified as a major retail development in terms of Policy L9 of Ayrshire Joint Structure Plan and Policy RTC 8 of Finalised East Ayrshire Local Plan. The applicant has submitted a Retail Supporting Statement commenting on the impact of proposed development in relation to planning policy.***

4.5 The report submitted by the applicant states that the envisaged turnover represents an impact of 6% on the total convenience turnover figure for the Kilmarnock catchment area. It is then assumed that three-quarters of the increase in turnover will be drawn from the out-of-town stores of ASDA and Sainsbury at Glencairn. It is unlikely that this will be the case given the level of other convenience stores located within the town centre which include Kwiksave, Marks and Spencer, Farmfoods, Iceland and most significantly Tesco. In terms of justifying the proposed store extension in capacity terms, it is envisaged that the likely impact upon the town centre will be substantial. The supporting statement offers no real justification as to why the impact upon the ASDA and Sainsbury stores will be so high as opposed to the town centre. It is contended that this will not be the case and the level envisaged will have

a substantial impact upon the town centre, to the detriment of the centre's vitality and viability.

***The impact of the proposed development on the vitality and viability of the town centre has been assessed in Section 6.7.***

4.6 There are a number of applications for retail development currently under consideration. This application does not represent the most suitable of these applications to provide additional retail floorspace in terms of sequential issues and the scope to provide linked trips due to the fact that the existing Tesco store comprises a stand-alone retail store which is isolated from other retail development. There are other retail proposals currently under consideration which are located in more sequentially favourable locations and within established retail areas.

***The main impact of the proposed extension would be on the existing Safeway and ASDA stores which are both out of town centre and as a result the impact on these stores is not a material consideration.***

4.7 The location of the drive-thru restaurant makes it almost certain that there will be a smell of fast food emanating from it and which will affect properties which are closest to it.

***This is an outline application and therefore the location of the drive-thru restaurant is indicative at this stage. No objection has been raised by Environmental Health on this aspect of the proposed development. They believe that this proposed use can be accommodated within the site without significant detriment to adjacent residential properties which would not significantly change the character of the shopping centre.***

4.8 There will be an increase in the noise level in the area. The nature of such a restaurant will attract children who will use the premises and its surroundings as a meeting point. It is currently a grassed area. There is a problem with noise during the weekends from the bar within the existing units which would intensify if the property were situated even closer.

***The shopping centre already has a certain level of noise and disturbance associated with it. It is considered that the new proposed uses will not increase it to such a level to have a significant adverse affect on adjacent residential properties. It is recommended that a condition is attached to any grant of planning consent requiring a noise assessment for the proposed development to be submitted for approval and any measures arising from the assessment incorporated within the design and layout of the development at the reserved matters stage.***

4.9 There is concern that the restaurant will be used by people until quite late at night. No details are given of the restaurant and whether it is proposed

to operate in the evening and if they propose any kind of drive thru facility with attendant intercom. They would prefer this restaurant to be resited towards the Western Road side of the car park.

***Details of the design, layout and exact location of the proposed drive-thru restaurant will be submitted at the reserved matters stage if outline planning consent is granted.***

4.10 The whole amenity and general character of the area to be occupied by the drive-thru restaurant and the remainder of the development will be detrimentally affected.

***It is considered that the drive thru restaurant can be accommodated on the site without significant detriment to adjacent residential properties and the other proposed uses. The design and location of the drive-thru restaurant would be addressed at the reserved matters stage.***

4.11 There is general concern that the nature of the development proposed is not so much a shopping centre but a complex of the nature of uses of that are situated at Queens Drive which they feel would be inappropriate in such a heavily built up residential area. They would prefer to see a greenfield than a 300 space car park from their window.

***The majority of the site is an existing neighbourhood shopping centre where a certain level of noise and disturbance already occurs, with existing uses, such as public houses, takeaways, petrol filling station, hotel and supermarket on site. It is considered that an introduction of a drive-thru restaurant, theme restaurant and extension to the supermarket can be accommodated on site without significant detriment to the amenity of the area and location and design of the various elements of the proposed development will be determined at the reserved matters stage.***

4.12 There is already 3 takeaways, a hotel with 2 restaurants and 2 licensed premises in the shopping centre and 3 drive-thru restaurants elsewhere in Kilmarnock. There is no need for another, as building a drive-thru in this area will create a bigger problem with litter, pollution, noise and encourage people to gather causing a disturbance.

***This is addressed in Section 4.11 above.***

4.13 There is concern with the location of the proposed petrol station as it would appear to be close to the properties adjoining Davaar Drive and Southcraigs. It will cause a health and environmental hazard with increased noise level as the garage is open 24 hours a day.

***The indicative site layout has been amended whereby the petrol filling station is now proposed towards the north of the site***

**adjacent to Glasgow Road. This would reduce the impact of the petrol filling station on residential properties in Wardneuk and Southcraigs. The final location of the petrol filling station will be determined at the reserved matters stage.**

4.14 The proposed development will decrease the value of property in the area as a petrol filling station and drive-thru restaurant will be adjacent to the gardens of residential property.

**The impact of the development on the value of adjacent residential properties is not a material planning consideration.**

4.15 It will turn the area into more of an industrial estate than a residential area, not the type of area to live in or the environment to bring up children.

**The site is an existing neighbourhood shopping centre with supermarket, hotel, petrol filling station and 6 shop units comprising shops, takeaways and bar. It is not considered that the proposed development will change the character of this neighbourhood shopping centre.**

4.16 There is an ongoing and well documented problem with drunken and unsociable youths using the existing Tesco's loading bay as a pub, a toilet, a giant litter bin, a football park as well as using the perimeter fence for graffiti practice and an adjacent garden as a rubbish dump. The proposed development provides these people with a larger playground for these activities and they can foresee a real problem with security not only for the residents but also customers to the shopping centre. More cars equal more thieves.

**Vandalism and unsociable behaviour is a police matter. This is an existing problem and it is not considered that the proposed development will intensify the existing problems. Strathclyde Police in their consultation response believe that the proposed changes will improve the existing situation, by bringing more structure and cohesion to the area with individual car parks being located adjacent to the buildings allowing better ownership.**

4.17 Noise due to increase in traffic, engines, car doors, horns, alarms and more delivery lorries over a much longer period of time than at present as drive-thru restaurants do not close at an early hour.

**This is an existing neighbourhood shopping centre with a certain level of noise and disturbance. It is not considered that the adjacent residential properties will be significantly affected by the proposed development.**

4.18 Traffic problems resulting in difficulty in using an adjacent driveway at peak times.

***The Roads Division has not raised any objection to the proposed development and believe that the proposed development can be serviced adequately without detriment to adjoining residential properties.***

4.19 Drains and sewage is already a great problem on Glasgow Road due to the Southcraig development causing strain on the existing pipes.

***A condition can be attached to any grant of outline planning consent requiring that no works start on site until such time as the applicant can provide written confirmation from Scottish Water that it is satisfied with the proposed drainage arrangements.***

4.20 The proposed development is neither needed or wanted on this site, if as has been suggested it is for the new houses at Southcraigs to have a better chance why not situate it up beside the Sandwich Factory which would be handy for the residents to use.

***The proposals involve an extension to an existing neighbourhood shopping centre. They provide a good opportunity to modernise the existing facilities and improve shopping facilities for the surrounding residential area. The Committee is asked to consider only the merits of the proposals before them.***

4.21 The drawings available does not show where the proposed buildings are in relation to existing houses and that makes it very difficult to determine the individual impact it would have on adjacent houses. They would expect amended drawings to be made available showing the houses as well as the boundary wall. They have been advised that further alterations will be made at a later date as the drawings are just indicative. This is of extreme concern and would like to voice their concerns to the developers.

***This is an outline planning application and the principle of the proposed uses is under consideration. Although the applicant has submitted a layout of how the proposed uses could be accommodated on site, this is indicative only at this stage. Details regarding the layout, design of the proposed buildings would be submitted at the reserved matters stage.***

4.22 Given the amount of land available for development they cannot understand why the developers insist on positioning one of the new buildings adjacent to the gardens of the houses in Davaar Drive and Lewis Drive. The existing car park should be retained as car parking to minimise the disruption to the established residents. These gardens are lower down than the existing car park and any new building would tower over the gardens and block out

natural light. Regardless of what element of the development is situated in this position it would have the same detrimental effect on these properties.

***This is addressed in Section 4.21 above.***

4.23 During the previous refurbishment of Tesco much of the work was carried out after normal shopping hours and this led to pneumatic jacks being used during the night causing severe noise problems to those properties adjacent to Tesco. They would like to see a complete moratorium on any noisy works after 22:00 hours to ensure that this problem does not reoccur.

***It is recommended that a condition is attached to any grant of planning consent restricting construction works, site clearance and demolition to between the hours of 07:00 to 17:00 Mondays to Saturdays and at no time on Sundays in order to safeguard the residential amenity of the area.***

4.24 The plans show a footpath link from Hestan Place to the development site. Historically people from Wardneuk have climbed the fence into the field from Cumbrae Drive as a short cut to the shops. This has been common practice for the last 25 years. Objection is raised to the footlink at Hestan Place as it is an enclosed cul-de-sac, very quiet and secluded and provides a very safe and secure area for young children in the street to play. This would cease to exist if the footlink was to go ahead. There is a height difference at the boundary where the footlink would go and a dwarf wall with fence on the boundary which is currently shared with the dwellings on the boundary. They believe that it is reasonable to have only one footlink from Wardneuk, the preferable option being Cumbrae Drive which is already established locally, for only people in Hestan Place would use this link as people outside the street would need to walk down Cumbrae Drive which already has an established footlink.

***It is important that the presently unformalised walking routes are formalised to provide a walking/cycle route between the neighbourhood shopping centre and adjacent residential areas. The location of the shopping centre provides an excellent opportunity for the promotion of sustainable travel patterns. Although the indicative site layout plan shows a footpath to Hestan Place, this is indicative and it is considered that there is little merit in having a second footway from a cul-de-sac as a footway is proposed from Cumbrae Drive which is a through road and an established footlink.***

4.25 The extensions and alterations to the superstore would suggest extended operating hours involving deliveries throughout the night and early hours of the morning. There would be increased noise level at night from the delivery traffic and noise from the work activities moving the cages during the deliveries.

***It is considered appropriate in this instance to restrict the hours of delivery to the supermarket by attaching a condition to any grant of planning consent as the present proposals would bring the new service access road and service yard closer to residential properties, which were otherwise not directly affected by the existing shopping centre.***

4.26 Refrigerated delivery vehicles are a common source of noise complaints whether they are operating at night or during the day as noise from the condensers is considerable and would significantly raise the normal night time background levels.

***This is addressed in Section 4.25 above.***

4.27 The number of people coming into the Southcraigs estate will increase via this footpath access as it is not a current access at present and is not designed to be one. It is an open recreational grass area with shrubbery.

***Presently the residents of Southcraigs use an unformalised walking route to the existing shopping centre. It is important that this footway is formalised to provide a walking/cycling link between the shopping centre and residential area. Without such a link this large residential area would be left without a pedestrian access to the shopping centre. The Western Road Shopping Centre is the most accessible location for these residents to meet day to day retail needs and provides an excellent opportunity for the promotion of sustainable travel patterns.***

4.28 The corner of the site that is adjacent to the Southcraigs development is going to be unsightly to look at and noisy as it is part of the service bay for Tesco's.

***Details regarding the treatment of this area would be submitted at the detailed stage. Within the indicative site layout plan it is envisaged that a substantial strip of landscaping be proposed between the residential areas and the service access and service yard.***

4.29 The development should be confined with the boundaries with preferably a brick wall enclosure on the side of the properties, to discourage undesirables and thieves from coming in through this route. Palisade fencing could be another option that may encourage any undesirables to stay with the boundary of this planned shopping, filling station and restaurant area.

***Details regarding the boundary treatment of the site would be submitted at the reserved matters stage.***

## 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 (1999) and the Adopted Kilmarnock Local Plan (1985). The Adopted Kilmarnock Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan. In arriving at the views expressed in this section the Council has taken into account the views of consultees in Section 3, objectors in Section 4, the applicants Retail Statement as summarised in Section 2.4 and the report by David Bryce commissioned by the Council.

### Adopted Kilmarnock Local Plan

5.2 Notwithstanding the age of the Adopted Kilmarnock Local the proposal requires to be assessed against its relevant policies. The site is located outwith the town centre with the majority of the application site within the settlement boundary of Kilmarnock. **Policy 4.3.2** allows additional retail convenience floorspace outside the Kilmarnock town centre where it is intended for the sale of daily provisions to meet an identified local need, and is a unit of not more than 200 square metres. **Policy 4.3.3** allows durable retail floorspace of a single shop unit of not more than 200 sq. metres for sale of goods which are a type not normally sold in the town centre or directly related to goods specifically manufactured on site. If the development does not accord with **Policies 4.3.2 and 4.3.3** above the retail development should not be allowed in terms of **Policy 4.3.4**. These policies were formulated to prevent an oversupply of retail floorspace which would have a detrimental effect on existing shopping facilities in Kilmarnock town centre.

***The proposed extension to the supermarket is essentially contrary to the above policies as it fails to meet the above criteria. However, the Adopted Local Plan is considered to be significantly out of date as the retail sector and Government guidance on retailing has moved on considerably since the above plan was adopted. Therefore minimal weight should be attached to the Adopted Local Plan.***

5.3 In terms of the theme restaurant and drive-thru restaurant Policy 4.3.7 is relevant which discourages outwith Kilmarnock town centre the provision of non-retail commercial uses in areas that are mainly residential in nature except within the areas identified in Policy 4.3.6 (South Central Kilmarnock, Bonnyton, Riccarton). The reason for this policy was that many of these uses can involve substantial “bad neighbour elements” being severely detrimental to the existing residential developments.

***The proposed theme restaurant and drive-thru restaurant is essentially contrary to the above policy. However, the theme restaurant and drive-thru restaurant are proposed within a***

***neighbourhood shopping centre. Although the existing shopping centre is adjacent to residential properties, it is considered that the proposed uses can be accommodated with the site without detriment to the amenity of adjacent residential properties.***

5.4 The northern area of the application site is outwith the settlement boundary of Kilmarnock. Policy 5.10.12 does not allow commercial development in the countryside outside the urban envelope of existing settlements unless it is related to local agricultural uses.

***The proposed development is essentially contrary to the above policy.***

#### Ayrshire Joint Structure Plan

5.5 The Ayrshire Joint Structure Plan was approved on 24 January 2000. The proposed retail development does not require to be assessed against **Policy L9** as the proposed extension to the existing supermarket does not involve a gross floorspace above 1,500 square metres.

**Policy L8** encourages the viability, vitality and design quality of existing town centres and accordingly:

- (a) new investment in retailing and commercial leisure facilities shall be directed first to town centres, and then to the edge-of-centres, in preference to out-of-centre locations;
- (b) applicants proposing retailing, commercial and leisure developments in out-of-centre locations shall need to demonstrate that no suitable site can be found, first, and preferably, within existing town centres, or secondly on the edge-of-centre; and
- (c) development should be of a size and scale appropriate to the function of the centre and should serve the needs of town and its catchment.

***The proposed development is essentially contrary to the criteria of the above policy which directs new investment in retailing and commercial leisure facilities first to town centres. This is discussed in detail in Section 6.4 below.***

***The Joint Ayrshire Structure Plan team have confirmed however that the proposed development does not raise any strategic concerns.***

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

6.1 The principal material considerations comprise the East Ayrshire Local Plan Finalised Version with Modifications (EALP), Government guidance contained in NPPG8 "Town Centre and Retailing", the consultation responses detailed in Section 3 above, and the objections detailed in Section 4 above.

## East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Adopted Local Plan is considerably out of date and it is considered appropriate that greater weight should be attached to a more recent expression of policy. The Council has agreed that, where applicable to an application, the policies of the EALP should be considered as a prime material consideration. Policies RTC1, RTC3, RTC5, RTC 7, RTC8 and RTC9 are relevant.

6.3 **Policy RTC 8** requires all major retail developments which create over 1,500m<sup>2</sup> gross retail floorspace to be supported by formal Retail Impact Assessments. Transport Impact Assessments will also be required where major retail or commercial leisure development proposals have significant transport and traffic implications.

***Although the proposed retail extension to the existing supermarket is less than 1,500 sq. metres the application has been accompanied by both a Retail Statement and Transport Impact Assessment. Details of the Transport Impact Assessment are discussed in Section 2.5. The content of findings of the Retail Statement are discussed in Section 2.4 of the report.***

6.4 **Policy RTC 1** adopts a sequential approach in assessing development proposals for retail, commercial, leisure developments and other uses appropriate to town centres as described in Schedule 5 of the Plan. Developers will be required to direct all such development firstly to town centres as identified on the Local Plan maps and secondly to edge of centre locations in preference to out-of-town locations. Applicants proposing such developments in out of town centre locations shall require to demonstrate that no suitable alternative site can be found or assembled within town centres and thereafter in an edge of centre location.

***The development footprint could in principle be accommodated in available town centre or adjacent town centre sites. The proposals are therefore contrary to Policy RTC 1 but the weight to be attached to this consideration is discussed below. The proposal is essentially an extension to an neighbourhood centre and the scale of the development is modest and proportional to the expanding population in the vicinity. Refer to the assessment of the proposal against NPPG 8 in Sections 6.9 – 6.12 of the report.***

***As the proposal involves a 15,600 sq. ft. extension to an existing supermarket in an established neighbourhood shopping centre, in this instance the proposal does not require to be justified against the sequential test. It is not considered that the proposed development will change the character of the shopping centre. The supermarket meets the day to day retail needs of the***

***surrounding residential area which has expanded significantly in recent years and will enable the modernisation of the supermarket and shopping centre. The location of the supermarket provides a good opportunity to meet community needs in a sustainable way. The theme restaurant and drive-thru restaurant are types of uses which are complementary to the other uses within the neighbourhood shopping centre. The proposal for new unit shops involves a reconfiguration of existing shops which will result in an overall increase in floorspace of 20 square metres.***

6.5 **Policy RTC 3** requires all types of development detailed in Schedule 5 of the Plan of a proposed gross floorspace less than 1,500m<sup>2</sup> to be directed to all town centres.

***The proposed extension to the supermarket, the new shop units, drive thru-restaurant and theme restaurant fall within the types of development detailed in Schedule 5 and therefore should be directed to the town centre. Therefore the proposed development is contrary to Policy RTC 3 of the EALP but refer to Section 6.4 above regarding the nature of the neighbourhood shopping centre.***

6.6 **Policy RTC 9** is supportive of proposals to extend existing retail premises where the extension is of a size and scale appropriate to the premises, of high quality and finish and does not exceed a total gross ground floor floorspace of more than 200m<sup>2</sup>.

***The proposal involves an extension of 1,445 sq. metres (15,600 sq. ft) and as a result the proposed extension cannot be accommodated under this policy. Therefore it requires to be assessed against Policy RTC 5 below.***

6.7 As the proposal is considered to be in an out of centre location it requires to be assessed against **Policy RTC 5** which states “With the exception of the types of development detailed in Policy RTC 7, (See Section 6.8 below) where development 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) 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

This is discussed in detail in Section 6.4 above.

(ii) Vitality and Viability of Town Centre

The impact of the proposal on other out of centre stores such as ASDA and the existing Safeway at Glencairn is not a relevant planning consideration. It is only the impact which the proposed extension will have on the vitality and viability of the town centre and in particular the existing convenience stores within the town centre as a whole that is considered material. The report prepared by David Bryce on behalf of the Council states that the turnover of the town centre may be lower as a result of the degree of competition or old-fashioned store formats. Utilising a lower turnover would increase the impact of the proposal but it is considered nevertheless that it would be within acceptable limits. David Bryce assesses the turnover of the town centre to be £31.30M. This figure is based on a market share analysis of town centre stores derived from the 1998 Household Shopping Survey carried out by Ayrshire Joint Structure Plan Committee. The impact of the proposed extension to the existing supermarket will therefore be 7.2% on town centre convenience stores rather than 6.6% as suggested by the applicant. An impact of 7.2% is acceptable and it is considered that town centre convenience stores will not be unduly affected by the proposed extension.

(iii) Accessibility of the site – Travel Patterns

The applicant has submitted a Green Transport Plan which offers staff and customers the opportunity to travel to the store by more sustainable means of transport. The location of the supermarket adjacent to residential areas allows sustainable travel patterns to be developed fully. The applicant is proposing to enhance footpath links for walking and cycling between the shopping centre and adjacent housing areas. Also public transport provision could be increased through negotiation with the local bus company and the provision of an additional bus stop within or adjacent to the shopping centre. Staff would also be encouraged to adopt more sustainable travel patterns and encouraged to set up a car sharing database. The applicant has been asked to contribute to a new localised bus service.

(iv) Compatibility of the Use

The application site is largely an existing neighbourhood shopping centre with the exception of the vacant land to the north. The proposed development is compatible with the surrounding residential areas. It will provide retail and leisure facilities for the surrounding residential properties. The provision of the drive-thru restaurant and theme bar/restaurant will encourage linked shopping trips.

(v) Design and Finish

This is an outline application and therefore details regarding the design and finish of the proposed uses will be submitted at the detailed stage. The buildings of the existing shopping centre are dated and in need of improvement. The proposals will improve the physical layout of the shopping centre including the opportunity for enhanced landscaping and quality design and finishes.

(vi) Compatibility with other Policy Objectives

Notwithstanding the retail policies identified above that are contravened, the proposal does not conflict with the other policy objectives of the EALP.

(vii) Implications on Existing Infrastructure

A TIA has been submitted for the proposed development and it is discussed in Sections 2.5, 2.6 and 3.1 of the report. The proposed use can be accommodated on the site without giving rise to traffic difficulties on the existing infrastructure.

6.8 **Policy RTC7** relates to retail development proposals in out-of-town centre locations will be supported where

- (i) the site is specifically identified for such purpose
- (ii) the proposal is for a local shop or shops not exceeding a total of 200m<sup>2</sup> gross floor area
- (iii) the proposal is for a factory not exceeding 200m<sup>2</sup> gross floor area or a farm shop
- (iv) the proposal is for a tourism, leisure or recreation related retail development including provision for the sale of refreshments not exceeding 200m<sup>2</sup> gross floor area

***The proposal is located in an out of town centre location and is contrary to the above policy as the size of the extension to the supermarket and the new unit shops and the leisure facilities exceeds the floorspace specified by the above policy. Refer to Section 6.4 regarding the nature of the neighbourhood shopping centre.***

6.9 The proposal for a new petrol filling station is assessed against **Policy RTC 16** and criteria of locational need, compatibility of use with surrounding land uses, impact of the development on the character and amenity of the surrounding area and the requirements of the Roads Authority.

***As the proposal involves a relocated petrol filling station, the proposal does not require to be assessed against this policy.***

NPPG 8 “Town Centres and Retailing” Revised 1998

6.10 National planning guidance recognises the important role town centres have in society and the Government is committed to protecting and enhancing the vitality and viability of town centres. Town Centres offer a range, quality and convenience of services and activities that are attractive not only to the local population and visitors but also to investors. The guidance advocates the sequential test approach for selecting sites for new retail development, with first preference to town centre sites followed by edge of centre sites and only then by out-of-centre sites in locations that are or are easily accessible by a choice of means of transport. Both the policies of the AJSP and EALP reflect the guidance contained in NPPG 8.

6.11 As with new developments, the expansion of existing developments should be judged against the Government's objectives of sustaining and enhancing existing town centre. The presence of an established development should not in itself set a precedent or provide the justification where such expansion would be inconsistent with the development plan and/or the policy principles of the NPPG. Where a proposal for the expansion of an existing individual out-of-centre retail store is of a small scale it may not have a significant effect. Nevertheless it should be assessed against the development plan strategy and the principles of this NPPG ensuring that where the expansion is approved, the scale of the increased floorspace does not result in a significant change to the retail or transport impacts of the original development.

***It is considered that the proposed development is of a type and scale which will not change the character of the shopping centre. The proposed development does not conflict with the above advice.***

6.12 Paragraph 45 of NPPG 8 states that where a proposed development is not consistent with the development plan it is for the developer to demonstrate why an exception to policy should be made. Such proposals should be rigorously assessed against the policies set out in the NPPG 8 and should be refused if all criteria contained in para 45 cannot be met.

***Criteria such as the sequential approach, effect on the vitality and viability of the town centre accessibility, impact on the local infrastructure are duplicated in the criteria of Policy L9 of AJSP and Policy RTC 5 of EALP. The proposed retail development is***

***assessed against the criteria in para 45 within Sections 5 and 6 of this report.***

6.13 Paragraph 16 of NPPG 8 states that “the principles underlying the sequential approach apply also to proposals to expand or change of use of existing out-of-centre developments, where the proposals are of such a size or type that would result in a change to their character as determined by the development plan.”

***It is not considered that the upgrading and extension to the supermarket of 1445m<sup>2</sup>, nor the reconfiguration of the shops, would essentially change the character of the existing centre, which is already well established. The theme restaurant and drive-thru restaurant are complementary uses to the shopping centre.***

In relation to the restaurants, pubs and hot food outlets Para 83 of NPPG8 states “it will normally be appropriate for them to be located in existing shopping or commercial areas”.

***The proposals therefore comply with this requirement and are acceptable in terms of the Policy RTC 5 of EALP.***

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

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

7.2 Legal implications would arise should the Council agree to approve the application as this would necessitate the Council entering into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with the applicant and landowners to secure obligations on the developer as detailed below.

- Financially contribute to improving the local bus service at a level to be agreed with the Council
- Implementation of the proposals contained in the Green Transport Plan
- Completion of footpath links to Cumbrae Drive, Kingsford Place and Lewis Drive

## **8. CONCLUSIONS**

8.1 As indicated at Section 5 of the report the proposal is considered to be contrary to the Adopted Local Plan and Approved Ayrshire Joint Structure 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. The proposal is considered to be contrary to the Development Plan for the following reasons:

- The site lies outwith the town centre in the Adopted Local Plan
- The proposed development is contrary to Policy L8 of Ayrshire Joint Structure Plan and policies of the Adopted Kilmarnock Local Plan

## 8.2 Further material consideration do not favour the proposal

- The proposal is contrary to Policy RTC 3 and RTC 7 as the proposed uses should be directed to the town centre.

## 8.3 The following material considerations however favour the proposal.

- The proposal involves a modest extension to an existing foodstore and associated developments which are located within an existing neighbourhood shopping centre which will not change its character and accordingly meet the requirements of NPPG 8 (para 16)
- The Finalised East Ayrshire Local Plan with Modifications is more aligned with NPPG 8 and the Approved Structure Plan and although the supermarket is located out of centre, the proposal to extend the existing supermarket within an existing neighbourhood shopping centre by 1,465 square metres is considered to be acceptable in terms of Policy RTC 5 as it will not have a significant impact on the vitality and viability of the town centre
- It will result in a qualitative improvement in retail floorspace by enabling wider aisles, coffee shop and crèche facilities for the foodstore
- The proposal does not raise any strategic concerns
- It will provide an improved retail facility and new leisure facilities adjacent to residential areas where population has grown significantly in recent years
- The theme restaurant, drive-thru restaurant and petrol filling station are considered to be complementary uses to the existing neighbourhood shopping centre and are in accordance with Policy RTC 5 and RTC 16 of Finalised East Ayrshire Local Plan
- The proposal will upgrade a dated neighbourhood shopping centre
- It provides an excellent opportunity to provide retail and leisure facilities in a sustainable way
- The development will result in the introduction of new footpath links and improved bus service

8.4 On balance and within the context of Section 25 of the Town and Country Planning (Scotland) Acts the proposal represents a departure from the Development Plan which is acceptable within the context of the Development Plan and other material considerations.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets and that the issuing of the Planning Decision Note be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants on the matters set out in principle in Section 7 of the report.**

**Stephen Chorley  
Director of Development Services**

24 July 2002 (PC/SA)

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Retail Statement by Montagu Evans – December 2001  
Supplementary Information dated 8 March 2002 and 3 May 2002.
4. Transport Assessment by Goodson Cole Transportation Consulting Engineers dated December 2001.
5. Travel Plan/Accessibility Audit by Goodson Cole Transportation Consulting Engineers dated February 2002.
6. Consultation Responses.
7. Letter of Representation.
8. Adopted Kilmarnock Local Plan.
9. Approved Ayrshire Joint Structure Plan.
10. Approved Strathclyde Structure Plan.
11. East Ayrshire Local Plan Finalised Version with Modifications.
12. NPPG 8 Town Centres and Retailing.
13. David Bryce Associates Report May 2002.

Anyone wishing to inspect the above papers please contact Pamela Clifford on (015653 576772).

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

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Site of Proposal: Western Road/Glasgow Road  
KILMARNOCK

Nature of Proposal: Proposed Extension and Alteration to  
Centre, Extension to Foodstore, Relocation  
of Petrol Station and Unit Shops and  
Construction of Theme Restaurant and  
Drive-Thru Restaurant

Name & Address of Applicant: County Properties (Northern) Ltd  
56 George Street  
EDINBURGH EH2 2LR

Name & Address of Agent: CTM Design Ltd  
14 Craigenlay Avenue  
Blanefield  
GLASGOW G63 9DR

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DPOs Reference: PC/SA

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 and location plan received on 2 July 2002, the Transport Assessment submitted on 10 January 2002, the Travel Plan/Accessibility Audit dated February 2002, Retail Supporting Statement dated December 2001 and Supplementary Retail Information dated 12 March 2002 and 7 May 2002 and amended plans on 10 May 2002.

REASON To ensure that the development is carried out in accordance with the approved details.

(2) That the indicative layout submitted along with the application are for information purposes only and shall not be treated as forming part of the issued planning permission.

REASON The approval is in outline only.

(3) Before any development commences on site, the further approval of the Planning Authority shall be obtained in respect of the undermentioned matters hereby reserved.

- (a) The layout of the site;
- (b) The size, height, design and external appearance of the proposed extension to the foodstore, petrol filling station, drive-thru restaurant, theme restaurant and unit shops;
- (c) The means of drainage and sewage disposal;
- (d) Details of the access arrangements;
- (e) The provision for open space and associated maintenance arrangements;
- (f) The provision for car parking;
- (g) The boundary walls/fences to be erected;
- (h) The landscaping of the site and associated maintenance arrangements;
- (i) Finished site levels/floor levels;
- (j) Treatment of the burn.

REASON The approval is in outline only.

(4) The gross floorspace of the proposed extension to the foodstore shall be limited to 1,445 square metres with a net sales area of 867 square metres and each of the 7 unit shops shall be no more than 93 square metres in area.

REASON To restrict the floorspace of the foodstore and unit shops in order to safeguard the viability and vitality of the town centre.

(5) At no time unless with the prior written consent of the Planning Authority shall any retail trading occur or goods be stored outwith the internal floorspace of the foodstore and unit shops hereby approved.

REASON In the interests of the proper planning of the foodstore.

(6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the Town and Country Planning (Use Classes) (Scotland) Order 1999 and insofar as the permission relates to the drive-thru restaurant and theme restaurant use, the further express permission of the Planning Authority shall be required in respect of any other use which falls within the same use class to the use hereby approved.

REASON To enable the Planning Authority to retain control over the use of the site in the interests of local planning policies.

(7) Prior to the commencement of development on site a comprehensive Green Transport Plan shall be submitted for approval and all measures arising from that shall be installed on site prior to the opening of the extension to the foodstore. The Green Transport Plan shall include the following road alterations to reduce car trip journeys

- (a) The location and design of the signalised pedestrian/cycle crossing
- (b) The internal layout shall allow buses to enter the site
- (c) A bus stop and bus shelter shall be provided within the site
- (d) Footway and cycleway links to Cumbrae Drive and to Kingsford Place
- (e) Direct footpath links to the site from the existing bus stops on Glasgow Road with an appropriate crossing facility on Glasgow Road
- (f) Public transport timetable displays
- (g) Provision for taxis
- (h) Secure cycle parking within the site and links to the cycleways on Western Road and Cumbrae Drive

REASON To promote and implement sustainable travel patterns.

(8) Prior to the commencement of development on site a Risk Assessment shall be submitted to and approved by the Planning Authority to address whether or not contaminants are entering or are likely to enter controlled waters and at what concentration. Any required remedial action shall be undertaken prior to any construction works commencing on site.

REASON To enable the site to be prepared to a condition suitable for the proposed use in the interests of public safety.

(9) The development hereby approved shall be undertaken without detriment to neighbouring residential properties by virtue of noise, dirt smoke or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

(10) No construction work, site clearance or preparation works shall take place before 07:00 hours and 17:00 hours on Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

(11) No materials other than top soil shall be brought onto the site for the purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in making up of ground levels.

(12) The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of road safety and the amenity of the area.

(13) Details to be submitted under Condition 3 above shall ensure that the porous car park operates a fail safe mechanism in the form of an upstand with a freeboard of 100mm minimum to prevent any direct surface water run off into the adjacent Burn.

REASON To prevent flooding of the site in the interests of public safety.

(14) No work shall commence on site until such time as the applicant has provided the Planning Authority with written confirmation from Scottish Water that the sewerage system is capable of accommodating the connection of this approved development.

REASON To ensure that adequate drainage is provided.

(15) Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban Drainage System shall thereafter be installed on site,

- (a) prior to the opening of the proposed extension to the foodstore
- (b) prior to the opening of the petrol filling station
- (c) prior to the opening of the drive-thru restaurant
- (d) prior to the opening of the theme restaurant
- (e) prior to the opening of the unit shops.

REASON To ensure that adequate drainage is provided.

(16) No deliveries shall take place to the foodstore between the hours of 24:00 and 06:00 Monday to Sunday.

REASON To safeguard the residential amenity of the area.

(17) Prior to the commencement of any development hereby approved on site, a Noise Assessment addressing the levels of noise generated by the development hereby approved and the impact of that development on the amenity of neighbouring adjacent residential properties taking into account the levels of noise from the existing commercial operations on site, shall be submitted to and approved in writing by the Planning Authority. All measures arising from that assessment shall be incorporated within the detailed design and layout of the proposed development in terms of the reserved matters to be submitted and approved under the terms of Condition 3 above.

REASON To protect adjacent properties from excessive noise in the interests of residential amenity.

(18) Details to be submitted under Condition 3 (b) all external doors of the theme restaurant shall be provided and maintained with self closing equipment.

REASON To protect adjacent properties from excessive noise in the interests of residential amenity.

(19) The existing unit shops and petrol filling station shall be demolished on site within 3 months of the opening of the unit shops and petrol filling station.

REASON To enable the Planning Authority to retain control over the development of the site in the interests of local planning policies and proper planning of the site.

## **NOTES TO APPLICANTS**

(1) Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

(2) No mechanical excavation shall take place within 500mm of Transco and recommend that the developer contacts the Glasgow Operations Office by telephone on 0141-418-4084 to arrange a site visit prior to the commencement of works on site.

(3) “The developer shall make early contact with the Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.”

(4) “The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.”

(5) All headwalls and trash screen shall take cognisance of CIRIA Report 168 Culvert Design.

**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**