

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 11 FEBRUARY 2003

02/0965/FL: ALTERATION OF CONDITIONS 1 (COMPLIANCE WITH RETAIL IMPACT ASSESSMENTS); 5 (RESTRICTION OF FLOORSPACE); & 7 (ROAD INFRASTRUCTURE) OF PLANNING CONSENT 01/0560/OL FOR ERECTION OF FOODSTORE & PETROL FILLING STATION ETC AT WEST LANGLANDS STREET, KILMARNOCK

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Permission is sought to alter the following conditions of planning consent no: 01/0560/OL. Conditions 1 (Compliance with Retail Impact Assessments); 5 (Restriction of Floorspace); 7 (Road Infrastructure) of Planning Consent 01/0560/OL: The precise wording of the above Conditions are detailed in Appendix 1 of the Report.

Condition no. 7 (Road Infrastructure)

- Revised means of primary vehicle access (traffic light controlled junction rather than a roundabout).

Condition no. 1 (Compliance with Retail Impact Assessments) and Condition no. 5 (Restriction of Floorspace)

Floorspace of the approved retail superstore was as follows:

- 7897 sq m (85,000 sq ft) gross floorspace; and
- 4975 sq m (53,552 sq ft) net sales floorspace, comprising
- 2610 sq m (28,095 sq ft) convenience goods floorspace; and
- 2365 sq m (25,457 sq ft) comparison goods

The current proposal is to amend the floorspace as follows:

- 7897 sq m (85,000 sq ft) gross floorspace; and
- 3709 sq m (39,923 sq ft) net sales floorspace, comprising
- 3153 sq m (33,936 sq ft) convenience goods floorspace; and
- 556 sq m (5,985 sq ft) comparison goods

1.2 The applicant has provided a supplementary Retail Planning Statement for the proposed development. The supplementary statement examines the new planning issues which arise from the proposed amendments to the restrictions on floorspace, in relation to both the development plan and material considerations. The proposals would result in a reduction in net floorspace of 25% and a reduction in comparison goods floorspace of over 75%, when compared to the current approval. Convenience goods floorspace would rise by only 20%.

1.3 An assessment of the access and transportation issues arising from the proposed amendments to the outline planning permission has been submitted by Colin Buchanan & Partners on behalf of the applicant. The response from the Roads and Transportation Division is outlined in Section 3 of this report.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets.

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report the proposal is considered to be contrary to the Adopted Local Plan and the 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.

3.2 Within the context of the approved outline application (Ref 01/0560/OL) the proposal is considered acceptable. The following material considerations add weight to that view:

- The increased impact on the vitality and viability of the town centre in terms of convenience goods is addressed through the Section 75 agreement associated with the Outline Planning Consent which secures a convenience store presence in the town centre.
- The impact on the vitality and viability of the town centre in terms of comparison goods will be less than that stated in the outline application as the proposed sales area for comparison goods is lower than that previously approved.
- The Roads Division have no objections to the change in the means of access from a roundabout to traffic lights.

3.3 On balance and within the context of Section 25 of the Town and Country Planning (Scotland) Act, the principle of a superstore has been considered in the approval of the Outline Consent (01/0560/OL). The current proposals do not raise any significant new planning issues and is viewed as being acceptable within the context of the development plan and other material considerations.

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

DEVELOPMENT SERVICES COMMITTEE: 11 FEBRUARY 2003

02/0965/FL: ALTERATION OF CONDITIONS 1 (COMPLIANCE WITH RETAIL IMPACT ASSESSMENTS); 5 (RESTRICTION OF FLOORSPACE); & 7 (ROAD INFRASTRUCTURE) OF PLANNING CONSENT 01/0560/OL FOR ERECTION OF FOODSTORE & PETROL FILLING STATION ETC AT WEST LANGLANDS STREET, KILMARNOCK

Report by Director of Development Services

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 Development Services Committee under the scheme of delegation as it involves a retail development of over 2,000m², which constitutes a significant departure from the East Ayrshire Local Plan Finalised Version.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the site of the former Britannia Works, a motor car showroom and garage, vacant land and building to the rear of the showroom, the existing car park of Hunslet Barclay, a vacant industrial unit and the Andrew Barclay listed building. The application site is split into two distinct areas by West Langlands Street. The northern area of the site is 3.87 hectares in area with the majority of the area being vacant derelict land with the exception of the existing Peugeot car showroom and garage and the car park presently used by Hunslet Barclay. The southern area of the site is 0.52 hectares in area and comprises the Andrew Barclay Category 'B' listed building which is now vacant as it is surplus to the requirements of its owners Hunslet Barclay. The application site is bounded to the north by the main Kilmarnock railway line, to the south by mainly residential properties and to the west by industrial/commercial premises and residential properties and to the east by commercial properties and Hunslet Barclay.

2.2 Outline planning consent was granted on 25 October 2002 for 85,000 sq ft food superstore, petrol filling station with Environmental Improvements and Flatted Residential Development with Heritage Centre on this application site (01/0560/OL).

2.3 **Proposed Development:** Permission is sought to alter the following conditions of planning consent no: 01/0560/OL. Conditions 1 (Compliance with Retail Impact Assessments); 5 (Restriction of Floorspace); 7 (Road Infrastructure) of Planning Consent 01/0560/OL: The precise wording of the above Conditions are detailed in Appendix 1 of the Report.

Condition no. 7 (Road Infrastructure)

- Revised means of primary vehicle access (traffic light controlled junction rather than a roundabout).

Condition no. 1 (Compliance with Retail Impact Assessments) and Condition no. 5 (Restriction of Floorspace)

Floorspace of the approved retail superstore was as follows:

- 7897 sq m (85,000 sq ft) gross floorspace; and
- 4975 sq m (53,552 sq ft) net sales floorspace, comprising
- 2610 sq m (28,095 sq ft) convenience goods floorspace; and
- 2365 sq m (25,457 sq ft) comparison goods

The current proposal is to amend the floorspace as follows:

- 7897 sq m (85,000 sq ft) gross floorspace; and
- 3709 sq m (39,923 sq ft) net sales floorspace, comprising
- 3153 sq m (33,936 sq ft) convenience goods floorspace; and
- 556 sq m (5,985 sq ft) comparison goods

2.4 The applicant has provided a supplementary Retail Planning Statement for the proposed development. The supplementary statement examines the new planning issues which arise from the proposed amendments to the restrictions on floorspace, in relation to both the development plan and material considerations. The proposals would result in a reduction in net floorspace of 25% and a reduction in comparison goods floorspace of over 75%, when compared to the current approval. Convenience goods floorspace would rise by only 20%.

2.5 An assessment of the access and transportation issues arising from the proposed amendments to the outline planning permission has been submitted by Colin Buchanan & Partners on behalf of the applicant. The response from the Roads and Transportation Division is outlined in Section 3 of this report.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division have commented that traffic lights will be acceptable at the junction of West Langland Street and North Hamilton Street and have no objection to the alteration of Condition No. 7.

Noted

3.2 Ayrshire Joint Structure Plan and Transportation Committee have no comments to make on the application.

Noted.

3.3 Bonnyton Community Council have not responded to their consultation letter at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 No representations have been received.

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 Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

Adopted Kilmarnock Local Plan

5.2 The relevant policies of the Adopted Kilmarnock Local Plan against which the proposal requires to be assessed are:

- **Policy 4.2.5** which encourages most types of industrial development in those areas identified as “industrial areas” on the local plan map;
- **Policy 4.3.2** which 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** which allows durable retail floorspace of a single shop unit of not more than 200 sq metres for sale of goods which are of a type not normally sold in the town centre or directly related to goods specifically manufactured on site; and
- **Policy 4.3.4** as the proposal does not comply with Policies 4.3.2 and 4.3.3.

The proposed superstore 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. The principle of a superstore has been established on this site with the approval of the Outline Planning Consent 01/0560/OL and the application for alteration to the Conditions does not raise any new planning issues.

Ayrshire Joint Structure Plan

5.3 The Ayrshire Joint Structure Plan was approved on 24 January 2000. The proposed development requires to be considered against Policies L7, L8 and L9. **Policy L7** refers to measures to promote and enhance town centres and **Policy L8** encourages the viability, vitality and design quality of existing town centres.

The principle of a superstore has been established on this site with the Outline Planning Consent being previously addressed against Policies L7 and L8 of the Ayrshire Joint Structure Plan. This application for the alteration to the Conditions does not raise any new planning issues in terms of Policies L7 and L8.

5.4 Proposals for major new retail developments should be assessed against **Policy L9** which requires retail development above 1500 square metres gross floorspace to be justified against the following criteria:-

- A whether the applicant adopted a sequential approach to site selection considering fully alternative sites in, and then adjoining, existing town centres;
- B effect on the viability, vitality and character of existing town centres either as an individual development or cumulatively with similar existing or approved developments (including those in adopted local plans);
- C existing and proposed floorspace that can be supported;
- D accessibility to the public transport network;
- E accessibility by means other than the private car;
- F effect on important neighbourhood retail facilities and small shops; and
- G the potential to integrate convenience and/or comparison goods floorspace.

Criteria A, C & D-G

The principle of the supermarket has been established on this site with the approval of the Outline Planning Consent and this application was assessed against these criteria. This present proposal raises no new issues in terms of the above criteria.

B Effect on Viability, Vitality and Character of Town Centre

It is only the impact which the store will have on the town centre as a whole that is considered material. The main issue is the additional convenience floorspace proposed in this application.

In the consideration of the outline consent for the superstore, it was established that the greatest impact of the proposal would be on Tesco (16%) and Kwik Save (3%) with overall impact on other town centre stores as 5.6%. It was considered at that time that the existing Tesco was trading at less than company average (a view that was endorsed by the Retail Consultant commissioned by the Council to examine the retail situation). The resultant effect was that the impact of a new store operator on the Tesco store was likely to be even higher than the 16% stated by the consultant

acting for the previous applicant. The Retail Planning Statement submitted with the current application estimates the impact on the existing Tesco store to be 18%. Kwik Save remains the same at 3%, whilst the impact on other town centre stores convenience floorspace increases slightly to 5.7%.

The situation remains the same as it was in the consideration of the outline application for the superstore i.e. the potential closure of the town centre Tesco store. However, this issue has been addressed through the signing of a Section 75 agreement to secure a convenience food unit within the Core Shopping Area. Other measures are also addressed in the Section 75 agreement aimed at lessening the impact of the new superstore on the town centre. ie. the provision of a 'hopper' bus and improved physical linkages from the new superstore to the town centre.

In respect of the proposed comparison floorspace, the proposed net sales area for comparison goods is reduced from that approved in the outline consent of 2,365 sq m (25, 457 sq ft) to 556 sq m (5,985 sq. ft). The impact on the vitality and viability of the town centre is therefore significantly reduced as a result and does not therefore raise any new planning issues in relation to impact on existing town centre stores.

In conclusion it is accepted that there will be an impact on town centre convenience stores but this has already been addressed through the provision of a Section 75 Agreement associated with the outline application for the superstore. The impact on comparison goods is less than that previously approved in the Outline consent and therefore the resultant impact on the town centre stores is less than previously considered.

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 NPPG 8 "Town Centre and Retailing", the planning history of the site, the consultation responses detailed in Section 3 above and other retail proposals.

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.

6.3 The site of the former Britannia Works is identified as a miscellaneous opportunity site in the EALP whereby the Council will encourage and support the development of the site for appropriate residential, business, industrial or storage and distribution use.

6.4 The relevant policies of the East Ayrshire Local Plan Finalised Version with Modifications are:

- **IND 5** as the area of the site to the rear of the car showroom, the Hunslet Barclay car park and the former JRG building are safeguarded for business, industrial and storage and distribution uses falling within Classes 4, 5 and 6 of Use Classes Order in terms of Policy IND 5.
- **RTC1:** Sequential approach
- **RTC3:** All development with floorspace exceeding 1,500 sq m to be directed to Kilmarnock and Cumnock town centres
- **RTC5:** Out-of-centre retail development
- **RTC8:** requires all major retail development over 1,500 sq m gross retail floorspace to be supported by a formal Retail Impact Assessment and a Transport Impact Assessment.

The principle of a superstore has already been assessed against the above policies. The proposed amendments to the Conditions do not raise any new planning issues. The changes in the floor area figures and their impact on the vitality and viability of the town centre has been addressed in Section 5.4 of the report.

NPPG 8 “Town Centres and Retailing” Revised 1998

6.5 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. The impact of the development in terms of relevant criteria such as the sequential approach, effect on the vitality and viability of the town centre, accessibility and impact on the local infrastructure are duplicated in the criteria of Policy L9 of AJSP and Policy RTC 5 of EALP against which the outline application was assessed and granted consent.

Planning History of the Site

6.6 01/0560/FL: Outline planning consent was approved on 25 October 2002 for the erection of an 85,000 sq. ft. food superstore (7,897 sq. metres), petrol filling station and flatted residential development with heritage centre.

Other Retail Applications

6.7 02/0005/OL: A similar planning application for a superstore of 95,000 sq ft, and ancillary facilities has been lodged by Safeway Stores PLC on 4 January 2002 on the site of Stoddards, West Shaw Street, Kilmarnock. The present application under consideration is not considered to be competing with the Safeway application, as the Safeway proposal involves largely a replacement of the existing floorspace of the existing Safeway Store with a slight increase and it is adjacent to the town centre.

6.8 02/0967/RM: A reserved matters application for the erection of a 7897 sq m food superstore and Petrol Filling Station with Environmental Improvements and Associated Works has been lodged by Wm Morrison Supermarkets Plc to address the details already approved in principle through the Outline Consent (Ref: 01/0560/OL). This will be presented to the Central Local Planning Committee at a future date.

6.9 02/0970/FL: Proposed Formation of Surfaced Car Park, Service Yard (Part) and Associated Works and 02/0969/FL: Proposed Surfaced Car Park with Associated Means of Access and Ancillary Works and Facilities have also been lodged with the Council by Wm Morrison Supermarkets Plc.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. The Section 75 Legal Agreement which is associated with the outline planning consent (01/0560/OL) for the superstore is unaffected by this present application.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of the report the proposal is considered to be contrary to the Adopted Local Plan and the 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.

8.2 Within the context of the approved outline application (Ref 01/0560/OL) the proposal is considered acceptable. The following material considerations add weight to that view:

- The increased impact on the vitality and viability of the town centre in terms of convenience goods is addressed through the Section 75 agreement associated with the Outline Planning Consent which secures a convenience store presence in the town centre.
- The impact on the vitality and viability of the town centre in terms of comparison goods will be less than that stated in the outline application as the proposed sales area for comparison goods is lower than that previously approved.
- The Roads Division have no objections to the change in the means of access from a roundabout to traffic lights.

8.3 On balance and within the context of Section 25 of the Town and Country Planning (Scotland) Act, the principle of a superstore has been considered in the approval of the Outline Consent (01/0560/OL). The current proposals do not raise any significant new planning issues and is viewed as being 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.

Stephen Chorley
Director of Development Services

3 February 2003

(PC/MS)

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Retail Planning Statement by Mappin Planning & Development dated December 2002.
4. Consultation Responses.
5. Adopted Kilmarnock Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Approved Strathclyde Structure Plan.
8. East Ayrshire Local Plan Finalised Version with Modifications.
9. Planning Application Nos: 01/0560/OL.

Anyone wishing to inspect the above papers please contact Stuart McAdam on 01563 576770.

Implementation Officer: Alan Neish

APPENDIX 1 – CONDITIONS No. 1, 5 & 7 OF THE OUTLINE PLANNING CONSENT No. 01/0560/OL

(1) The proposed development shall be carried out in accordance with the application form received on 21 August 2001 as amended by the letter received on 16 April 2002; the Retail Impact Document on November 2001 and the Supplementary Retail Information submitted on 22 January and 25 February 2002, the Transport Assessment submitted on 3 December 2001, the document titled "Development Principles, Procedures and Objectives submitted on 5 April 2002 and the amended plans received by the Planning Authority on 18 April 2002, 20 May 2002 and 10 June 2002.

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

(5) The gross floorspace of the superstore shall be limited to 7,897 square metres with a net sales area of 2,610 square metres for convenience goods only and net sales area of 2,365 square metres for comparison goods only.

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

(7) The details to be submitted under Condition 3 above shall include the following road alterations which shall be provided on site prior to the opening of the superstore.

- (a) Traffic signals at Munro Avenue/Bonnyton Road shall be provided to cater for generated traffic and pedestrian and cycle movements
- (b) The design and location of the roundabout as a suitable means of access to the development site. The design of the roundabout shall provide for cycle and pedestrian facilities and shall cater for extra long loads to the adjacent Hunslet-Barclay industrial use.
- (c) The provision of locations for bus infrastructure including lay-by/setting down points either adjacent or within the site and provision of appropriate public transport timetable displays.
- (d) The layout of the internal road arrangements shall be designed to prevent traffic backing on to the proposed roundabout.
- (e) The design and layout of pedestrian access to the site of the superstore and heritage centre.

REASON The application is in outline only and such details are required to be approved and implemented in the interests of road safety and providing sustainable travel patterns.

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0965/FL

Location: West Langlands Street
KILMARNOCK

Nature of Proposal: Alteration of conditions 1(Compliance with Retail Impact Assessments); 5 (Restriction of Floorspace); 7 (Road Infrastructure) & 17 (Requirement For Suds) Of Planning Consent 01/0560/FL For Erection Of Foodstore & Petrol Filling Station Etc.

Name & Address of Applicant: WM Morrison Supermarkets plc
Hillmore House
Thorntoun Road
BRADFORD
BD8 9AX

Name & Address of Agent: Smith Design Associates
16 Lynedoch Crescent
GLASGOW
G3 6EQ

DPO's Ref: PC/MS

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

Condition 1 of Planning Consent 01/0560/OL shall read:

(1) The proposed development shall be carried out in accordance with the application form received on 21 August 2001 as amended by the letter received on 16 April 2002; the Retail Impact Document on November 2001 and the Supplementary Retail Information submitted on 22 January and 25 February 2002, the Transport Assessment submitted on 3 December 2001, the document titled "Development Principles, Procedures and Objectives submitted on 5 April 2002 and the Supplementary Retail Planning Statement submitted on 5 December 2002 and the amended plans received by the Planning Authority on 18 April 2002, 20 May 2002 and 10 June 2002.

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

Condition 5 of Planning Consent 01/0560/OL shall read:

(5) The gross floorspace of the superstore shall be limited to 7,897 square metres with a net sales area of 3,153 square metres for convenience goods only and net sales area of 556 square metres for comparison goods only.

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

Condition 7 of Planning Consent 01/0560/OL shall read:

(7) The details to be submitted under Condition 3 of Planning application 01/0560/OL shall include the following road alterations which shall be provided on site prior to the opening of the superstore.

- (a) Traffic signals at Munro Avenue/Bonnyton Road shall be provided to cater for generated traffic and pedestrian and cycle movements
- (b) The design and location of the traffic lights as a suitable means of access to the development site. The design of the junction shall provide for cycle and pedestrian facilities and shall cater for extra long loads to the adjacent Hunslet-Barclay industrial use.
- (c) The provision of locations for bus infrastructure including lay-by/setting down points either adjacent or within the site and provision of appropriate public transport timetable displays.
- (d) The layout of the internal road arrangements shall be designed to prevent traffic backing on to the proposed roundabout.
- (e) The design and layout of pedestrian access to the site of the superstore and heritage centre.

REASON The application is in outline only and such details are required to be approved and implemented in the interests of road safety and providing sustainable travel patterns.

**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.**