

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 22 MARCH 2002

01/0747/FL: PROPOSED CHANGE OF USE OF MANUFACTURING UNIT TO LICENSED LEISURE CLUB PROVIDING SNOOKER AND POOL FACILITIES AT 21 RIGG STREET STEWARTON FOR BA PROPERTIES LTD

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for a change of use of the industrial unit to form a licensed leisure club providing snooker and pool facilities. The applicant proposes no external alterations to the buildings. Any signage required in association with the proposed use, would require to be the subject of a separate application for Advertisement Consent.

1.2 The application seeks to renew a previous planning permission (96/0344/FL) for the proposal which was granted with conditions on 17 October 1996. The current application was submitted within 5 years from the original decision but that full planning permission has since lapsed.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated at paragraph 5.2 of the report, the application is considered to accord with the terms of the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise. As is indicated at para 6.2 to 6.8 of the report, there are material considerations relevant to the determination of this application.

3.2 Given the age of the Adopted Local Plan, the Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications) should be considered as a prime material consideration. The proposal does not accord in full with the East Ayrshire Local Plan Finalised Version with Modifications. However, the site is immediately adjacent to the town centre boundary in circumstances where it is considered that an exception to policy would be justified. The development can be controlled by the use of appropriate conditions such that the impact on adjacent premises is minimised.

3.3 The objections received are noted but are not considered to justify a refusal of the application.

3.4 There are no consultation replies which would indicate that the application should be refused.

3.5 Planning Permission 96/0344/FL for a change of use of the premises to a licensed club was granted with conditions on 17 October 1996. This permission has, however, since lapsed.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building control, the application will not require to be referred to Development Services Committee as such a decision would partially accord with the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building control, the application will not require to be referred to Development Services Committee as such a decision would accord with the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

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

NORTHERN AREA LOCAL PLANNING COMMITTEE: 22 MARCH 2002

01/0747/FL: .PROPOSED CHANGE OF USE OF MANUFACTURING UNIT TO LICENSED LEISURE CLUB PROVIDING SNOOKER AND POOL FACILITIES AT 21 RIGG STREET STEWARTON FOR BA PROPERTIES LTD

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the Scheme of Delegation as the application is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an existing vacant industrial unit on the west side of Rigg Street, Stewarton. The vacant unit forms part of a number of industrial units which house a variety of land uses including a gymnasium, blacksmiths and bakers. The site lies adjacent to a supermarket car park. A number of residential properties including a development of flatted dwellings lie on the opposite side of Rigg Street. Two petrol filling stations are also located in close proximity to the application site.

2.2 **Proposed Development:** Full planning permission is sought for a change of use of the industrial unit to form a licensed leisure club providing snooker and pool facilities. The applicant proposes no external alterations to the buildings. Any signage required in association with the proposed use, would require to be the subject of a separate application for Advertisement Consent.

2.3 The application seeks to renew a previous planning permission (96/0344/FL) for the proposal which was granted with conditions on 17 October 1996. The current application was submitted within 5 years from the original decision but that full planning permission has since lapsed.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objection to the proposal stating that it would not require any car parking to be provided with the development.

Noted. Given the edge of town centre location it is considered that car parking is not a critical factor in the determination of the application given the proximity of existing car parks. Furthermore, should the application be approved patrons might also be expected to leave at the premises by foot or by public transport.

3.2 East Ayrshire Council Environmental Health and Waste Management Division has no objection to the proposal.

Noted.

3.3 Stewarton and District Community Council has not responded to the consultation letter at the time of writing this report.

Noted.

4. REPRESENTATIONS

Nineteen letters of objection (26 signatories in total) have been received in response to the application. The grounds of objection can be summarised as follows:-

4.1 The proposal represents the loss of industrial land to a non industrial use. As such the proposal is contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications). Whilst other land has been identified for industrial development in the East Ayrshire Local Plan (Finalised Version with Modifications) this land is ineffective by virtue of its topography, location, perceived flood risk and access constraints. For these reasons the Council should conserve what little industrial land is left in Stewarton.

This site is not specifically safeguarded for industrial purposes in the East Ayrshire Local Plan (Finalised Version with Modifications). The proposal is not therefore contrary to the provisions of the East Ayrshire Local Plan in so far as the loss of the site to leisure use is concerned. The sites included within the East Ayrshire Local Plan as sites for future industrial development are not considered ineffective and have not been the subject of objection or debate at the Local Plan Public Local Inquiry. It is therefore considered that the loss of the site to leisure use would not justify a refusal of the application as it is not a site safeguarded for industrial purposes in the East Ayrshire Local Plan.

4.2 The proposal is contrary to Policy RTC1 of the East Ayrshire Local Plan (Finalised Version with Modifications) as it lies outwith the town centre of Stewarton.

Whilst the site lies outwith the town centre, it nevertheless lies immediately adjacent to the town centre boundary in an area where a degree of noise and disturbance might be expected. For that reason it considered that, should the application be approved, an appropriate condition restricting -the hours of operation can be included on the planning permission designed to minimise any impact on the adjacent residential premises.

4.3 The proposal is contrary to Policy RTC1 as its gross floor space is less than 1500 sq.m.

Policy RTC 1 relates to the sequential test and does not refer specifically to any measurement of floor area. Policy RTC 3 however relates to retail developments of less than 1500m² being directed to all town centres within East Ayrshire. .This would include Stewarton. As the proposal is less than 1500m² and relates to a site outwith Stewarton town centre it is considered to be contrary to Policy RTC3 but not by reason of its floor area. It is considered however, that this specific provision could be laid aside for the following reasons:

- (i) The site is immediately adjacent to the town centre boundary;**
- (ii) The site is located in a mixed use unit comprising a gym, blacksmiths and bakers; and**
- (iii) Planning consent was previously granted for the proposed use in October 1996.**

4.4 The proposal is contrary to Policy RTC 5 (ii), through its cumulative effect on similar enterprises nearby.

It is not the function of the Planning Authority to regulate economic development to safeguard existing businesses. Policy RTC 5 (ii) relates to the cumulative effect of similar developments on the viability of town centres, not as the objector has interpreted it. It is not therefore considered that the proposal is contrary to Policy RTC5 (ii).

4.5 The proposal is contrary to Policy RTC 5 (iv) as it is a use which would bring about disturbance and noise in the evening.

Whilst the site lies outwith the town centre, it nevertheless lies immediately adjacent to the town centre boundary in an area where a degree of noise and disturbance might reasonably be expected. For that reason it considered that, should the application be approved, an appropriate condition restricting the hours of operation can be included on the planning permission designed to minimise any impact on the adjacent residential premises.

4.6 The proposal would have an adverse impact in terms of traffic impact with several premises using the same access.

The Roads and Transportation Division has not objected to the application.

4.7 Insufficient car parking is available to service the development.

The Roads and Transportation Division has stated that they do not require any car parking to be provided specifically for this development.

4.8 The proposal is contrary to NPPG8 Town Centres and Retailing in that proposals for restaurants, pubs and hot food outlets should have regard to noise and disturbance particularly in close proximity to residential uses.

Should the application be approved, it is considered that the planning permission can be designed, with the use of an appropriate condition relating to hours of operation to have due regard to the amenity of nearby residential properties. It is not therefore considered that the proposal is contrary to the provisions of NPPG8.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Adopted Stewarton Local Plan (1987) and the Approved Ayrshire Joint Structure Plan (1999). The Adopted Local Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the application site lies within the town centre as defined in the Adopted Local Plan. The application therefore requires to be determined in regard to Policy 5.1.7 (2) which permits mixed uses within town centres.

The application is considered to accord with the provisions of the Adopted Local Plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATION

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised

Version with Modifications), the consultation replies and the objections detailed above.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications) should be considered as a prime material consideration.

East Ayrshire Local Plan (Finalised Version with Modifications)

6.3 The proposal falls to be determined with regard to Policy IND 8 which states that:

"Other than those sites specifically safeguarded for industrial use under Policy IND4, proposals for alternative uses of land or premises currently or formerly used for industrial purposes shall be considered acceptable subject to the following criteria:

- (i) the proposed use not being detrimental to surrounding established uses;

Whilst the site lies outwith the town centre, it nevertheless lies immediately adjacent to the town centre boundary in an area where a degree of noise and disturbance might be expected. For that reason it is considered that, should the application be approved, an appropriate condition restricting the hours of operation can be included on the planning permission designed to minimise any impact on the adjacent residential premises.

- (ii) the proposal meeting with the requirement of all other relevant Local Plan policies;

It is considered that the proposal generally complies with all other Local Plan policies.

- (iii) the existence of alternative industrial or business land or premises with potential for future employment use within the settlement concerned."

A number of other sites have been specifically safeguarded for industrial development in Stewarton. It is therefore considered that the proposal complies with Policy IND8.

6.4 The proposal also requires to be determined with regard to Policy RTC5. Policy RTC 5 states:

'With the exception of the types of development detailed in Policy RTC 7 where developments of the types detailed in Schedule 5 of the Local Plan are proposed in locations outwith town centre boundaries or on sites not identified

as being suitable for such purposes as shown on the Local Plan maps, these will require to be justified and will be assessed against the following criteria:

- (i) their compliance with the sequential approach detailed in Policy RTC1

The proposal does not comply with the sequential test as the site lies outwith the town centre as detailed in the East Ayrshire Local Plan (Finalised Version with Modifications). However, in this instance it is considered that an exception can be made for the following reasons: (i) the site lies immediately adjacent to the town centre boundary in an area where a degree of noise and disturbance might reasonably be expected; (ii) the site is located in a mixed use unit comprising a gym, blacksmiths and bakers; and (iii) planning consent was granted in October 1996 for a change of use from a manufacturing unit to a licensed club. It is therefore considered that, should the Committee agree to approve the application, any planning permission could be designed to minimise any impact on the nearby residential properties.

- (ii) the extent of the development's catchment area and 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 the catchment area;

It is not considered that the proposal would compromise the viability of the town centre.

- (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;

It is considered that this site, immediately adjacent to the town centre is easily accessible by a variety of transport modes.

- (iv) the compatibility of the use with surrounding land uses;

As noted above, the site is located within a mixed use unit, although any planning permission granted can be designed to minimise any impact on nearby residential property.

- (v) The quality of the design and finish of the proposal and its contribution to the environmental quality, character and amenity of the area;

The proposal relates to the change of use of an existing building and does not include any external alterations.

- (vi) the compatibility of the proposal with all other policy objectives of the Local Plan;

The proposal generally complies with all other policies in the EALP .

(vii) the implications that the development would have on existing infrastructure and the trunk and the local road networks."

It is not considered that the proposal will have any such implications.

6.5 Policy RTC 1 of the East Ayrshire Local Plan (Finalised Version with Modifications) is also of relevance and states:

"The Council will adopt 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 centre locations. Applicants 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."

Notwithstanding the provisions of Policy RTC1 the proposal is considered to be acceptable in the proposed location. In this instance it is considered that an exception can be made for the following reasons (i) the application site lies immediately adjacent to the town centre boundary where a degree of noise and disturbance might reasonably be expected and that any planning permission granted can be controlled such that any impact on adjacent premises is minimised; (ii) the site is located in a mixed use unit comprising a gym, blacksmiths and bakers and (iii) planning consent was granted in October 1996 for a change of use from a manufacturing unit to a licensed club.

6.6 The application should also be assessed against Policy RTC 3 which states:

Subject to the provisions of all other retail policies, all development proposals falling within the classes of development detailed in Schedule 5 of the Local Plan will be directed to:

- (i) Kilmarnock and Cumnock Town Centres if the proposed gross floorspace exceeds 1,500m²; and
- (ii) All town centres if the proposed gross floorspace is less than 1,500m².

As the proposal is less than 1500m² and relates to a site outwith Stewarton town centre it is considered to be contrary to Policy RTCJ but not by reason of its floor area. It is considered however, that this specific provision could be laid aside for the following reasons:

- (i) The site is immediately adjacent to the town centre boundary;
- (ii) The site is located in a mixed use unit comprising a gym, blacksmiths and bakers; and.
- (iii) Planning consent was granted for a similar use in October 1996.

Consultations

6.7 There are no consultation replies which would indicate that the application should be refused.

Noted.

Planning History

6.8 Planning Permission 96/0344/FL for a change of use of the premises to form a licensed club was granted with conditions on 17 October 1996. This planning permission has since lapsed.

Noted.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 of the report, the application is considered to accord with the terms of the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at para 6.2 to 6.8 of the report, there are material considerations relevant to the determination of this application.

8.2 Given the age of the Adopted Local Plan, the Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications) should be considered as a prime material consideration. The proposal does not accord in full with the East Ayrshire Local Plan Finalised Version with Modifications. However, the site is immediately adjacent to the town centre boundary in circumstances where it is considered that an exception to policy would be justified. The development can be controlled by the use of appropriate conditions such that the impact on adjacent premises is minimised.

8.3 The objections received are noted but are not considered to justify a refusal of the application.

8.4 There are no consultation replies which would indicate that the application should be refused.

8.5 Planning Permission 96/0344/FL for a change of use of the premises to a licensed club was granted with conditions on 17 October 1996. This permission has, however, since lapsed.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building control, the application will not require to be referred to Development Services Committee as such a decision would partially accord with the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

Alan Neish
Head of Planning and Building Control

13 March 2002 (DS/SA)
FV-DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation Replies.
4. Adopted Stewarton Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. East Ayrshire Local Plan (Finalised Version with Modifications).
7. Letters of Objection.
8. Planning Application 96/0344/FL.
9. Approved Strathclyde Structure Plan.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0747/FL

Site of Proposal: Unit Front Left
21 Rigg Street
STEWARTON

Nature of Proposal: Proposed Change of Use from Manufacturing
Unit to Licensed Club Providing Snooker and
Pool Facilities

Name & Address of Applicant: BA Properties Ltd
21 Rigg Street
STEWARTON

Name & Address of Agent: Keir and Fraser Architects
Unit 38
Six Harmony Row
GLASGOW G51 3BA

DPOs Reference: DS/SA

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

(1) 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 1997 this permission relates to a Licensed Leisure Club providing snooker and pool facilities and the further express permission of the Planning Authority shall be required in respect of any other use which falls within the same use class as the use hereby approved.

REASON To enable the Planning Authority to retain control over the use of site in the interests of residential amenity .

(2) The use hereby approved shall not be carried outwith the hours of 09.00 to 23.00 Sunday to Thursday and 09.00 to 00.00 Friday and Saturday.

REASON To prevent noise and disturbance extending into residential areas during times where other sources of noise have subsided, in the interests of residential amenity .

(3) A scheme showing the provision to be made for refuse disposal shall be submitted to and approved by the Planning Authority prior to the commencement of any development on site.

REASON In the interests of residential and environmental amenity.

(4) All external doors shall be provided and maintained with self closing equipment.

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

NOTES

1. Advertisement Consent may be required for any external signage to be displayed on the premises. No such consent is conveyed with this grant of planning permission and the applicant is advised to seek further advice from the Planning Authority in this regard.

**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.**