

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 22 DECEMBER 2000

**00/0315/FL: PROPOSED ALTERATIONS AND CHANGE OF USE FROM
RETAIL SHOP TO HOT FOOD CARRY OUT
AT 1 POLWARTH STREET, GALSTON
BY MR HUSYIEN COBANOGLU**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.2 This application is for a proposed alteration and change of use from retail shop to hot food carry out. Details of an external flue to the rear have been submitted. (Advertisement details on the submitted plan would require to be the subject of a separate application).

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 The age of the development plan indicates that the material policy consideration when determining this application must be the Finalised East Ayrshire Local Plan.

3.2 It is considered that the proposed change of use does accord with Policy RTC14 of the Finalised East Ayrshire Local Plan with no objections being raised by the consultees.

3.3 The consultees responses adequately address the issues raised by the objectors in terms of noise, traffic, smell and location and consequently it is not considered that the objections are of sufficient weight to indicate that a refusal would be appropriate.

3.4 Conditions can be attached to any consent mitigating any adverse impacts arising from the proposal.

Alan Neish
Head of Planning and Building Control

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located within the town centre and the Outstanding Conservation Area on the eastern side of Polwarth Street in Galston near the junction of Polwarth Street with Wallace Street, Bridge Street and Henrietta Street. This ground floor property is situated between a hairdressers at 3 Polwarth Street and a video shop at 2 Henrietta Street. A flatted property is located above the application site. The western side of Polwarth Street comprises of residential flatted development on first floor and shop units on the ground floor. The application site is currently being occupied as a shop unit.

2.2 **Proposed Development:** This application is for a proposed alteration and change of use from retail shop to hot food carry out. Details of an external flue to the rear have been submitted. (Advertisement details on the submitted plan would require to be the subject of a separate application).

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Roads and Transportation Division have no objection to the proposal.

Noted.

3.2 Galston Community Council have not responded at the time of writing.

Noted.

3.3 West of Scotland Water have suggested that drainage from this development should include an adequate grease trap.

A condition requiring the inclusion of a grease trap can be attached to any grant of planning permission.

3.4 The Department of Community Services, Environmental Health and Waste Management have advised that:

1. The premises should comply with the relevant provisions of the Food Safety Act, 1995 and associated Regulations; in this context the following points have been noted:
 - (a) A wash hand basin with hot and cold water supply, should be provided for use of kitchen staff.
 - (b) The premises are not overly generous in size, adequate suitable storage facilities should be provided for foodstuffs and stock and equipment, including refrigeration.
 - (c) The premises do not have a rear door; furthermore, some doubts have been expressed as to any right of access to the area to the rear of the building. Accordingly, I would ask if the applicant can produce satisfactory guarantees as to the availability of suitable refuse storage provision.
2. In addition to the above-mentioned points, there is the question of flue ventilation from the main cooking area. Ventilation flues would normally terminate shortly above eaves level, which in this case would not be at an adequate height to clear the velux windows of the residential property directly above the proposed carry out. The only acceptable solution would be the installation of a complete filtration/treatment unit externally at the point where the ventilation duct exits the building.

The Planning Division has been in contact with the agent who has advised that the refuse from the shop will be stored at the rear of the premises and that their client has a legal right of access to the rear back court area where a refuse container can be sited. On collection days the container will be brought to the front of the shop for collection. A condition regarding the installation of the required ventilation system can be attached to any grant of planning permission. Furthermore the other issues raised by the Environmental Health Division will be dealt with in accordance with the Food Safety Act 1995.

3.5 The Architectural Heritage Society of Scotland have no comments on the proposed development.

Noted.

3.6 Historic Scotland are pleased to note that the scheme has been amended in accordance with their recommendations.

Noted.

4. REPRESENTATIONS

(3 letters of objection have been received with 5 signatories). The grounds of objection are as follows:-

4.1 Noise/Nuisance – The proposed use will increase the number of noisy persons congregating in this area at late hours.

The Department of Community Services, Environmental Health and Waste Management, have no objections in principle to the proposed use of the premises as a hot food takeaway. Account should also be taken of the existence of the public houses in the immediate vicinity. It is recognised that the introduction of a hot food takeaway is likely to attract people to the shop late at night. Nevertheless, the degree of disturbance must be assessed against existing uses in the area. The proposal is also located within the town centre of Galston where such uses are considered to be acceptable in terms of Local Plan policy.

Conditions restricting the opening hours of the proposal can be attached to any grant of planning permission. Such a condition will take into account the impact of surrounding uses and the degree to which the proposal would add to noise and disturbance.

4.2 Traffic/Parking – The location of the shop at the zebra crossing ensures that there are no immediate parking facilities for the proposed shop. During busy times at the public house in Polwarth Street it is difficult for residents to get parked in the street. Minor accidents occur at the junction adjacent to the shop on a regular basis.

The Roads Division have been consulted and have no objections to the proposed change of use (para 3.1).

4.3 Access/Refuse Storage – The applicant does not own, has no access to, and no external refuse storage area at the rear of the property.

The applicant has stated in writing that they do have a legal right of access and storage to the rear (para 3.4). A condition, regarding the location of the refuse container, can be attached to any grant of planning permission.

4.4 Smell – The applicant would need to put an extractor flue on the wall outwith their ownership obstructing the kitchen window of the property above. In addition the smell from the takeaway shop will permeate to the property above. The provision of the extract fans at the rear of the property would impair the use of garden areas directly adjacent to the shop.

See Department of Community Services response para 3.4. A condition, requiring details of the proposed extraction system, can be attached to any grant of planning permission. In order to implement these details where they directly make contact with property not in the applicant's ownership, the applicant will require the separate legal consent of affected owners.

4.5 Vacant Hot Food Carry-out Units – There are other vacant hot food carryout units within the town centre location which could be utilised for this purpose.

The provision of other vacant units is not a planning consideration; a decision is required on the planning merits of the proposal at the location indicated.

5. DEVELOPMENT PLAN STATUS

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Adopted Joint Ayrshire Structure Plan and, in the case of the Irvine Valley, the Ayr County Development Plan. The latter is considerably out of date and as a consequence, significant weight must be attached to a more recent expression of policy.

5.2 The relevant policy document is therefore the Finalised East Ayrshire Local Plan. This has been agreed by the Council as a prime material consideration and the main policy base for the determination of development proposals. The proposal lies within the town centre boundary. The relevant policy in the Local Plan is Policy RTC14:

Policy RTC14

Development proposals for public houses and hot food takeaways will be considered acceptable uses within town centres and may be considered appropriate in other locations where the proposals:

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

The proposal does accord with Policy RTC14 of the Finalised Local Plan as it is located within the town centre. In addition there are no objections from the consultees in terms of road or environmental health and if suitably conditioned, it would not have any adverse detrimental effect on the amenity of adjacent properties. It is also considered that the proposed use would be compatible with the existing surrounding land uses.

6. OTHER PLANNING CONSIDERATIONS

6.1 None.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSION

8.1 The age of the development plan indicates that the material policy consideration when determining this application must be the Finalised East Ayrshire Local Plan.

8.2 It is considered that the proposed change of use does accord with Policy RTC14 of the Finalised East Ayrshire Local Plan with no objections being raised by the consultees.

8.3 The consultees responses adequately address the issues raised by the objectors in terms of noise, traffic, smell and location and consequently it is not considered that the objections are of sufficient weight to indicate that a refusal would be appropriate.

8.4 Conditions can be attached to any consent mitigating any adverse impacts arising from the proposal.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

13 December 2000
(CSI/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Objection.
5. Correspondence from/to the applicant.
6. East Ayrshire Council Local Plan (Finalised Version).

Anyone wishing to inspect the above papers please contact Craig Iles on 01563 576770.

Implementation Officer: Dave Morris

000315FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 00/0315/FL

Site of Proposal: 1 Polwarth Street
GALSTON

Natural of Proposal: Proposed Change of Use from Retail Shop to
Hot Food Takeaway

Name & Address of Applicant: Mr and Mrs Husyien Cobanoglu
C/o Agent

Name & Address of Agent: AGM Architects
Portland Business Centre
Portland Road
IRVINE KA12 8JE

DPOs Reference:CSI/MMM

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

1. The use hereby approved shall only operate between the hours of 11.00a.m. and 11.00p.m. on Sunday to Wednesday and between 11.00 a.m. and 12.00 midnight each Thursday, Friday and Saturday.

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

2. All external doors shall be provided and maintained with self-closing equipment to the satisfaction of the Planning Authority.

REASON In the interests of residential amenity.

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

REASON To safeguard the amenity of the area.

4. A scheme showing the provision to be made for the disposal of refuse shall be submitted to and approved by the Planning Authority before any development commences on site. The scheme shall thereafter be implemented as approved.

REASON In the interests of public safety.

5. Prior to the commencement of the development, details of the proposed equipment to be installed in relation to the extraction of smells shall be submitted to and approved by the Planning Authority. Any equipment approved shall be installed prior to the commencement of the use and thereafter maintained to the satisfaction of the Planning Authority.

REASON In the interests of public health and residential amenity.

6. Notwithstanding the plans submitted the external flue shown on the rear elevation is not hereby approved.

REASON In the interest of public health and residential amenity.

7. Notwithstanding the submitted plans, the proposed development shall include an adequate grease trap.

REASON In the interests of public health and the amenity of the area.

**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

