

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 1 MARCH 2002 01/0605/FL AND 01/0606/LB: PROPOSED CHANGE OF USE INCLUDING ALTERATIONS AND ERECTION OF EXTERNALLY ILLUMINATED SIGN AT 32 MAIN STREET NEWMILNS BY MARCELLO PIA

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This is a full planning application and a listed building application for a change of use of the vacant shop unit to form an amusement centre. The proposal will include internal and external alterations to the property and the erection of a sign externally illuminated by 3 no. downlighters.

2. RECOMMENDATION

2.1 It is recommended that the applications be approved subject to the conditions on the attached sheets.

3. CONCLUSIONS

3.1 As is indicated in Section 5 of the report, the applications are considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the applications should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report there are material considerations relevant to the applications. However, these are supportive of the applications.

CONTRARY DECISION NOTE

Should the Committee agree that the applications be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as they would not represent a significant departure from policy.

Alan Neish
Head of Planning and Building Control

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

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 1 MARCH 2002

01/0606/LB AND 01/0605/FL: PROPOSED CHANGE OF USE INCLUDING ALTERATIONS TO SHOPFRONT OF VACANT SHOP TO AMUSEMENT CENTRE AND ERECTION OF EXTERNALLY ILLUMINATED SIGN AT 32 MAIN STREET NEWMILNS BY MARCELLO PIA

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination applications which are to be considered by the Local Planning Committee under the scheme of delegation because they are subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a vacant ground floor shop unit within a Grade "C" listed building located within the Main Street, Newmilns Outstanding Conservation Area. The shop unit was formerly used as a vegetable shop. The unit is bounded by a residential unit above and by shop units to the east and west.

2.2 **Proposed Development:** This is a full planning application and a listed building application for a change of use of the vacant shop unit to form an amusement centre. The proposal will include internal and external alterations to the property and the erection of a sign externally illuminated by 3 no. downlighters.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have confirmed that they have no objection to the applications.

Noted.

3.2 The Architectural Heritage Society of Scotland have advised that they have no comments to make regarding these applications.

Noted.

3.3 Newmilns and Greenholm Community Council have indicated in relation to the planning application that they are unhappy with the proposal due to their belief that the amusement centre will attract an undesirable element into the area. The location of the centre next door to the licenced shop will encourage people to drink inside the premises or in the near vicinity thereof. The increase in the number of individuals in close proximity to the unit will present a road safety danger due to their larking about outside the

Centre. The Main Street is used 24 hours a day by heavy lorries travelling at speed which due to their width have to mount the pavement in order to pass. The shop is in a domestic area and houses surround either side and above the shop and hence the noise level generated by the amusement centre will be detrimental to the privacy of the owners in the area.

The Community Council state that as the amusement centre will attract undesirables to the Main Street and due to the lack of a resident police presence in Newmilns, police from Kilmarnock would have to respond to any disturbance in the area.

In relation to the listed building application, the Community Council have indicated that they object to the application due to the proposed use of dark glazing in the front elevation. It is their opinion that the use of dark glazing will not be in keeping with the area and will prevent the Police and other individuals from driving past the premises and seeing what is occurring within the premises.

With regard to the increase in the numbers of the people using the area, if approved it is acknowledged that the proposal will increase the number of people in the area. However, the premises are currently vacant and the introduction of any use would similarly increase activity. Indeed this is likely to be to the benefit of the economic performance of the area. In terms of the East Ayrshire Local Plan, the proposal is located within the town centre boundary of Newmilns and therefore the assembly of the public within this area is generally acceptable. The policing of Newmilns is a matter for Strathclyde Police and cannot be considered a planning matter. As noted in paragraph 3.1 the East Ayrshire Council Roads Division have no objection to the application.

The Community Council continue that the toilet facilities are inadequate for the proposed use. There could be at times 20 or more people in the Centre and the tendency is for them to be there for long periods and consuming pop so they would be prone to more trips to the toilet. If it is not improved and available to the clients they will just step outside and use the area as a urinal. It would appear that the toilet is only for the staff. The fire escape leads to a back entry and although it allows for anyone to gain egress from the Centre, once outside they have no place to go.

The toilet provision and fire escape routes for the proposal fall within the remit of the Building (Scotland) Act 1959 and an appropriate consent under said Act is required to be obtained prior to commencement of development on site.

3.4 Historic Scotland have no negative comments to make on this application and indicate that the Inspectorate are very pleased to see a commercial use proposed for this former shop.

Noted. Evidence has been submitted further to appeals elsewhere in East Ayrshire, and accepted by the Scottish Executive Reporters which points to the commercial benefits arising from the introduction of such uses.

3.5 The Scottish Civic Trust have indicated that the use of dark brown opaque glazing will detract significantly from the conservation area within which it is located and recommends that normal plate glazing with a screen behind could be utilised instead. Due to the fact that they have only viewed the property from the exterior they raise concerns about the impact that a suspended ceiling will have on the integrity of the listed building.

A condition can be attached to any grant of planning permission and listed building consent requiring the use of clear glazing with a screen behind on the front elevation. It is considered that the provision of the suspended ceiling will not damage the integrity of the existing ceiling and therefore the existing lighting rose (the only significant element internally) will be retained intact.

3.6 Department of Community Services; Environmental Health and Waste Management Section have indicated that they would have no objection to the applications provided the operation of the premises would not result in any noise nuisance to the occupants of the flatted property above.

Conditions can be added to any grant of planning and listed building consent in order to regulate the noise output of the premises.

3.7 Strathclyde Police have no objection to the applications however they have confirmed that a number of reported youth disorder incidents have occurred in the Newmilns area, although none of these have occurred in the immediate vicinity of the application site. Nevertheless it must be borne in mind that the nature of the development will attract youths to the area and as a result raise the potential for disorder.

If approved it is acknowledged that the proposal will increase the number of people who utilise the area, and therefore raise the potential for disorder on the simple basis of more people being in the area. Although the policing of Newmilns is a matter for Strathclyde Police and cannot be considered a planning matter, it is appropriate in the determination of an application to have regard to its potential to lead to disturbance detrimental to residential amenity. In this case, it is notable that the police confirm that incidents of disorder already pre-date the application. Furthermore, the applicants have submitted that the minimum age for admission will be 18. Youths will not therefore be able to use the premises.

4. REPRESENTATIONS

Five objections have been received in relation to the planning application and one letter of objection has been received in relation to the listed building consent. The applicant has submitted two letters in support of the proposal.

4.1 “Large numbers of youths will hang around the amusement centre. The amusement centre will encourage youths from other valley towns to visit Newmilns leading to street fighting between gangs from rival towns.

Due to the town being an unemployment blackspot, where will the youths get money to gamble in the arcade? Will the passing public be accosted for money and feel intimidated enough to hand it over. The crime and vandalism that is being caused by the young people in the town is a disgrace, you only have to look at the Council office to see that windows are broken every week. I myself got windows smashed and it cost £920 to replace. “

Street fighting, theft and vandalism are matters to be addressed by the Strathclyde Police. However, the applicant has indicated that there will be no admission to those under 18 and thus the relevance of youth disorder is greatly reduced.

4.2 I would like to know how an amusement centre is in keeping with the Conservation Area. The amusement centre will attract young people into the area.

As indicated in response to section 3.3 above the use of this building within the town centre conservation area is acceptable. Furthermore, NPPG8 “Town Centres and Retailing”, acknowledges that a wide range of activities can contribute to the vitality and viability of town centres. Although more generally suited to secondary shopping locations, amusement centres can contribute beneficially to such a location particularly where there have been several unsuccessful attempts at introducing a viable retail function. The variety offered by such a use can also co-exist with surrounding uses if suitably conditioned and where the premises benefit from a design compatible with the character of the area. These premises will be compatible with the conservation area.

4.3 Having evaluated the application against Development Plan Policy and National Planning Guidance a further objector considers that the proposal submitted by Mr Pia is contrary to the provisions of the applicable Development Plan Policies and National Guidance contained in NPPG8.

While it is accepted that a town centre requires a selection of non-retail uses, such uses must not undermine the town centre's principal retail function. At present, Newmilns town centre is characterised by a significant amount of non-retail and sui-generis uses while there is also a significant number of vacant units. The use of the application unit as an amusement centre will do nothing to enhance the viability of Newmilns town centre as it will remove the potential for the unit to be used for a retail purpose. Granting of planning permission would further reduce the attractiveness of the town centre as a location for retailers and fail to stem the declining vitality and viability of the town centre and would further increase the ratio of non-retailing to retail uses.

Approving the introduction of another non-retail use in Newmilns town centre would be detrimental to the viability and vitality of this area and be contrary to policy. The aim of the retail policy in the Local Plan is to ensure the principal function of the town centre remains as retail and that the introduction of non-retail uses are only allowed where they assist and support the principal function.

Policy RTC 20 does not offer blanket support for amusement centres in town centres and given that the application site is located on the ground floor of a two storey building, which has residential units on the upper level, it is likely that the proposal will have a detrimental impact upon the amenity enjoyed by neighbouring residents. Therefore, the proposal must be regarded as being contrary to the aforementioned policy.

This objection advances the view that only a retail use can enhance the viability of Newmilns town centre. This is inconsistent with NPPG8. It is considered that there would indeed be a positive benefit to the centre of Newmilns arising from the operation of an amusement centre catering for more mature customers; rather than under 18's. This principle has been accepted on appeal elsewhere where the level of custom attracted to such premises can match and sometimes surpass that drawn to other town centre uses such as retailing, travel agents, building societies, taxi offices, laundrettes etc. The East Ayrshire Local Plan Finalised Version with Modifications recognises the need to both protect and enhance the core retail function of town centres but also seeks to promote centres that are multi functional and accommodate a wide variety of uses.

With regards to the alteration of the façade of the building these works would have a major detrimental effect on the appearance of the Listed Building and on the overall character of the Outstanding Conservation Area. National Planning Guidance also expresses its clear concern regarding the introduction of amusement uses into listed buildings.

As the applicant has failed to provide analysis of who potential clients will be it is impossible to make a proper judgement on the merits of the application.

As stated in response to section 3.3 above the provision of an amusement centre in the town centre does accord with the relevant Development Plan. With regard to the design of the frontage of the building, a condition can be attached to any grant of Listed Building Consent and planning permission regarding the provision of clear glazing to the window and the erection of a screen behind said clear glazed window and the proposed works to the front elevation. In terms of the impact of the development on the above residential properties, conditions can be attached to any grant of planning permission regarding the hours of operation of the amusement centre and the control of music and noise generated by the proposed use. NPPG 8 Town Centres and Retailing indicates that careful consideration must be given to the provision of amusement centres in buildings of special architectural or historic character. These applications do take account of the architectural and character of the building and can be approved such that there would be no adverse effect on the amenity of the conservation area.

As noted in Section 3.4 above, Historic Scotland Inspectorate are very pleased to see a commercial use proposed for this former shop. Architectural Heritage Society for Scotland have indicated that they find the proposal quite acceptable.

With regards to Policy RTC 20 the proposal for the Amusement Arcade would be considered to be unacceptable if there was to be any detrimental impact on the amenity of nearby residential properties, however, the amenity of the residential property above the proposal site can be protected through the attachment of conditions relating to the sound proofing of the unit, the hours of operation of the unit, the noise level generated by the equipment and the installation of a self closing door to the premises.

4.4 In support of the application the applicant has indicated that “the minimum age for admission to the unit will be 18 years old and that no food or drink will be permitted to be brought in to the premises. The applicant has also further confirmed that the premises will contain both amusements with prizes machines and video game machines. The property has had 3 or 4 unsuccessful attempts to establish a Class 1 retailing use. The property has recently been occupied by a charity shop on short term lease. The proposal meets the terms of NPPG8 Town Centres and Retailing and the Finalised Local Plan Policies RTC2 and RTC3. It has been stated by Scottish Executive Reporters in many Planning Appeal Decisions for commercial uses in similar locations that Town Centre residents must expect some degree of noise and disturbance if they choose to live in a town centre. The A71 is a through route so there is some noise and activity 24 hours per day. It is significant that the adjacent use is a licensed shop so there is already activity here in the evening. There are other empty shop units in Newmilns.”

As stated by the applicant above, the proposal is located within Newmilns Town Centre and (as indicated in Section 6.3 below) the proposal accords with Policy RTC 2 and 3 of the EALP.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the Development Plan comprises the Approved Ayrshire Joint Structure Plan and the Ayr County Development Plan 1953.

5.2 The Ayrshire Joint Structure Plan was approved on 24 January 2000. The proposal would fall to be considered against Policies L7 and L8. Policy L7 seeks to encourage a wide range of uses including retail, commercial and leisure in order to promote or enhance town centres in Ayrshire. Policy L8 states that the vitality, viability and design quality of existing town centres as defined by local plans shall be maintained and enhanced.

It is considered that the proposed use is not contrary to Policies L7 and L8 of the Approved Ayrshire Joint Structure Plan. There is no evidence to suggest that the amusement centre would not be complementary to the other uses in the town centre or that it would detrimentally affect the vitality or viability of the town centre. On the contrary, it would introduce activity into the town centre where previously there was a vacant unit.

The proposed development is located within the Newmilns commercial area as designated in the Ayr County Development Plan. The Ayr County Development Plan has no specific policies relative to amusement centres and therefore is of little relevance in the determination of the applications.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications), the government guidance on listed buildings contained within the Memorandum of Guidance on Listed Buildings and Conservation Areas consultations and objections detailed above and NPPG 8.

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 (EALP) should be considered a prime material consideration.

6.3 Policy RTC2 of the EALP outlines the type of development detailed in Schedule 5 of the Plan that is considered to be acceptable in principle in town

centres. This includes Class 1: shop uses; Class 2: financial, professional and other services; Class 3: food and drink; Class 11: assembly and leisure uses such as cinemas, bingo hall, discotheque and sui-generis uses such as theatres, public houses and amusement arcade or centre. (Sui-generis uses are those which do not lie within any specific use class).

6.4 Policy RTC11 also applies to this proposal as the property is currently vacant. This policy indicates that when a property within the classes of development detailed in Schedule 5 of the EALP becomes vacant, the Council will encourage and support the reuse of the property for similar Schedule 5 uses where it is considered that the proposed use of the property is sympathetic to the character and amenity of the area concerned. This policy was formulated to help preserve the fabric of the area settlements by encouraging continued use of properties which would otherwise fall vacant.

6.5 Policy RTC 20 of the EALP indicates that all applications for amusement centres will be directed to existing town centres. However, such developments are unlikely to be acceptable where there would be any detrimental impact on the amenity of nearby residential properties, schools, places of worship, hospitals, hotels or other sensitive establishment which generally require and enjoy a high level of environmental quality by reason of noise or other disturbance. This policy was formulated to protect the amenity and character of sensitive land uses from undue noise and other disturbance.

As the proposal is a Schedule 5 use and the premises are currently lying vacant the proposal accords with the requirements of Policies RTC2 and RTC 11 of the EALP. To ensure the proposal accords with Policy RTC 20 of the EALP, conditions can be attached as appropriate to any consent granted regarding the hours of operation and the control of noise output of the premises.

6.6 National Planning Policy Guideline 8 “Town Centres and Retailing”

This NPPG states government policy guidance for certain retail proposals and the approach to town centres. It also addresses other non-retail uses which have a role in contributing to the economic health and enhancement of the town centre. The NPPG states that the Government is committed to protecting and enhancing the vitality and viability of town centres. These areas should offer a range, quality and convenience of services and activities attractive to the local population and investors. Shops in particular make an important contribution to their character however a range of uses other than shopping should be encouraged to locate within the town centre including commercial, leisure developments. It is important that retailing is retained as its core function as shopping still largely underpins the use and value of town centres making a major contribution to their vitality and viability. Discussing amusement centres specifically, NPPG 8 states that depending on the type of facility proposed, amusement centres may cause noise and disturbance and be of concern because of their location and impact on the amenity of the neighbourhood, on vehicular and pedestrian movements and their location

and appearance. It continues that generally, amusement centres are most appropriately sited in secondary shopping areas or in areas of mixed and commercial development. They are unlikely to be acceptable in primary shopping areas, close to housing and near schools, places of worship, hospitals and hotels and where they are likely to affect amenity adversely, especially in areas or places of special architectural or historic character. They may also be inappropriate below flatted residential property if the amusement centre might give rise to noise and disturbance to the residents of the flatted development above them. In granting planning approval, authorities should give careful consideration to the nature and extent of any planning conditions which may be appropriate to mitigate effects. These might include conditions regarding opening hours or noise reduction measures i.e. insulation, self-closing doors or enclosure of the front of the premises.

The proposed development is located within the existing town centre of Newmilns which is a mixed commercial area through which passes the busy A71. The noise impact of the proposed development on residential property can be mitigated by the attachment of conditions to any grant of planning and listed building consent relating to the insulation between the unit and the flat above, the hours of operation of the unit and the control of noise emanating from the unit when in use.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated in Section 5 of the report, the applications are considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the applications should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report there are material considerations relevant to the applications. However, these are supportive of the applications.

9. RECOMMENDATION

9.1 It is recommended that the applications be approved subject to the conditions on the attached sheets.

CONTRARY DECISION NOTE

Should the Committee agree that the applications be refused contrary to the recommendation of the Head of Planning and Building Control, the applications will not require to be referred to the Development Services Committee as they would not represent a significant departure from policy.

Alan Neish
Head of Planning and Building Control

19 February 2002 (CI/SA)
FV-DVM

LIST OF BACKGROUND PAPERS

1. Application Form/Plans.
2. Statutory Notice/Certificates.
3. Letters of Representation.
4. East Ayrshire Council Local Plan (Finalised Version).
5. Approved Ayrshire Joint Structure Plan.
6. NPPG 8 Town Centres and Retailing.
7. Ayr County Development Plan.
8. Approved Strathclyde Structure Plan.

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/605/FL

Site of Proposal: 32 Main Street
NEWMILNS

Natural of Proposal: Alterations to Shopfront of Proposed
Amusement Centre and Erection of
Externally Illuminated Sign

Name & Address of Applicant: Mr Marcello Pia
71 Neilston Road
PAISLEY
PA1

Name & Address of Agent:

DPOs Reference: CI/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 received on 23 August 2001 and the amended plans received by the Planning Authority on 20 December 2001.

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

2. No shooting gallery or games of occasional nature e.g. bingo, shall be played in the premises at any time.

REASON In the interests of the amenity of adjacent properties.

3. No live, taped or recorded music shall be played on the premises at any time.

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

4. Before commencement of the use, the walls and ceilings shall be soundproofed so that any noise generated from the premises is not to the detriment of the surrounding properties at any time when measured within any other property.

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

5. 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.

6. The use hereby approved shall not be carried out before 10.00 hours and after 21.00 hours on Sundays to Thursdays and before 10.00 hours and after 22.00 hours on Fridays and Saturdays.

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

7. Notwithstanding the plans hereby approved, the glazing to the front elevation is not approved. Details of alternative clear glazing shall be submitted for approval to the Planning Authority, and thereafter implemented as approved, prior to the commencement of the development on site.

REASON In the interests of visual amenity.

8. The premises shall at all times feature a display consistent with its location in a town centre location. Details of this display, which shall incorporate a screen, shall be submitted to and approved by the Planning Authority prior to the commencement of development.

REASON In the interests of visual amenity in this town centre location.

NOTE TO APPLICANTS

The proposed illuminated fascia sign will require to be the subject of a separate advertisement application.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0606/LB

Site of Proposal:	32 Main Street NEWMILNS
Natural of Proposal:	Alterations to Shopfront of Proposed Amusement Centre and Erection of Externally Illuminated Sign
Name & Address of Applicant:	Mr Marcello Pia 71 Neilston Road PAISLEY PA1
Name & Address of Agent:	

DPOs Reference: CI/SA

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

1. Notwithstanding the plans hereby approved, the glazing to the front elevation is not approved. Details of alternative clear glazing shall be submitted for approval to the Planning Authority and thereafter implemented as approved, prior to the commencement of the development on site.

REASON In the interests of visual amenity.

2. Before the commencement of use, the walls and ceilings shall be soundproofed so that any noise generated from the premises is not to the detriment of the surrounding properties at any time when measured within any other property.

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

3. Notwithstanding the plans hereby approved the colour of the proposed paintwork to the front elevation is not approved. Details of treatment to the front elevation shall be submitted to and approved by the Planning Authority prior to commencement of development on site.

REASON In the interests of visual amenity.

**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