

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 28 SEPTEMBER 2001

**01/0172/FL: CHANGE OF USE OF ENGINEERING WORKS TO BUS GARAGE/DEPOT AT
68 IRVINE ROAD KILMAURS BY ROWE AND TUDHOPE COACHES , MUIRKIRK**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The application before the Committee is retrospective in nature and involves the change of use of the premises from an engineering works to a bus garage/depot. The application was registered in March this year and advertised in the local press. It is proposed to depot a fleet of 15 mixed vehicles at these premises, and the various elements of the premises will be utilised as follows: staff parking to the front of the buildings, offices, garaging and maintenance of vehicles in the building and parking and circulation areas to the rear. It is also proposed to move the side access to immediately adjacent the east elevation of the building, thus allowing an improved access geometry within the application site. Moving this access provides a separation distance of approximately 10m to the housing on the east of the side and it is proposed to landscape that strip.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5 above, the application is considered to be neither contrary to nor in accordance with the Development Plan as there are no relevant policies in the Adopted Kilmarnock Local Plan against which to assess the application. Therefore, the proposal requires to be assessed against material considerations relevant to this application.

3.2 There are a number of significant material considerations of which account must be taken, primarily in relation to the issue of environmental impact. The East Ayrshire Local Plan Finalised Version with Modifications addresses the proposal through Policy IND 8 which concerns non industrial activity being introduced into former industrial sites. The policy seeks to bring industrial buildings and land back to an acceptable alternative economic use. In this case the former Kilmaurs Engineering Company ceased trading in the late 1990's and, at its peak, employed 50 people between 7.30 a.m. and 4.30 p.m. weekdays. There was both Saturday and Sunday working in an enterprise which included engineering and sheet metal working.

3.3 The operation of a bus depot does not lie within any use class as identified by the Town and Country Planning Use Classes (Scotland) Order 1997 however the application does include some repair and engineering elements consistent with an industrial use.

3.4 The operation of the depot additionally, however, entails activity late at night and into early morning; principally the starting up, reversing and movement of buses. This activity during anti social hours is inconsistent with Policy IND 8.

3.5 Having regard to the terms of Policy IND 8, the past use of the site and the various representations received; the material considerations indicate that it would be appropriate to approve the application subject to conditions mitigating its adverse impacts. In particular it is recommended that use of the garage should not be carried out before 7.00 hrs and after 23.00 hrs Monday-Saturday, nor at any time on a Sunday.

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 retrospective application which is to be considered by the Local Planning Committee under the scheme of delegation because it has been the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** No. 68 Irvine Road, Kilmaurs is a single storey industrial building on the periphery of Kilmaurs. To the north and south across Irvine Road lies agricultural land. To the immediate east and west the site is bounded by housing development and a single house in a large plot respectively. The boundary to the west is delineated by a high conifer screen in the owner's garden and to the east by a mix of timber fencing. Currently No. 68 Irvine Road enjoys a wide frontage to the main road with an undefined vehicular access/egress arrangement, approximately 40m wide. Access is available along the eastern extremity of the site to an extensive rear area and the largest/highest part of the building enjoys a front and rear door arrangement.

2.2 **Proposed Development:** The application before the Committee is retrospective in nature and involves the change of use of the premises from an engineering works to a bus garage/depot. The application was registered in March this year and advertised in the local press.

It is proposed to depot a fleet of 15 mixed vehicles at these premises, and the various elements of the premises will be utilised as follows: staff parking to the front of the buildings, offices, garaging and maintenance of vehicles in the building and parking and circulation areas to the rear. It is also proposed to move the side access to immediately adjacent the east elevation of the building, thus allowing an improved access geometry within the application site. Moving this access provides a separation distance of approximately 10m to the housing on the east of the site and it is proposed to landscape that strip.

3. CONSULTATION AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have confirmed that they have no objection to the proposal provided the following requirements are met.

- The relocated access should be widened to 6m and be maintained as the sole access.

- The remaining road frontage of the site to the west of the proposed access should be provided with full height kerbs and a 2m wide service strip.
- The east and west junction radii should be amended to 9.0 m and 10.5 m respectively.

Noted. These requirements are not unanticipated by the applicant. They are only slightly more onerous than what is proposed and accordingly can be secured by condition if the Committee are of a mind to approve the application.

3.2 West of Scotland Water have advised that there are no known sewers to which a connection can be made, accordingly any septic tank must be sited in such a manner as to allow access for emptying by tankers. Additionally they offer no comment on the provision of water services.

Noted.

3.3 Scottish Environment Protection Agency - The initial comments from SEPA were that there is no objection to the proposal provided that the drainage from the premises is connected to the sewer. Subsequently, SEPA have now confirmed that provided that the existing septic tank and soakaway arrangements are upgraded they would have no objection.

Noted.

3.4 Kilmaurs Community Council have not responded at the time of writing this report.

Noted.

3.5 East Ayrshire Council Environmental Health and Waste Management Division were consulted in March this year. Their response draws heavily on their investigation of a direct complaint from an adjacent proprietor which prompted a visit to the depot, which is summarised as follows:

“My officer visited the site on the 3rd July 2001 in response to a complaint by Mr Miller, 66 Irvine Road regarding fumes from the garage. This complaint was found to be fully justified as several buses were left idling in the area directly adjacent to the existing entrance allowing visible exhaust fumes to blow over No. 66. This lasted some time and the Police Office in Stewarton were contacted regarding the unnecessary idling of the engines which is an offence. Mr Miller has been advised to contact the Police Road Traffic Division in Ayr should this occur again.

The property at No. 66 Irvine Road and the properties to the west side of McNaught Place are likely to suffer from noise nuisance, particularly where bus movements occur at unsociable hours, i.e. between the hours of 23:00 and 07:00.

It is reasonably foreseeable that given the close proximity of the existing entrance and number of bus movements, that No. 66 Irvine Road will also be subject to excess vibration.

The entrance and yard covering at the moment is unsurfaced giving rise to significant amounts of dust during dry weather. It is therefore foreseeable that this could lead to mud being transferred onto the public road in wet weather.

Given the nature of the intended use for the site, i.e. repair and storage of buses (some of which are a considerable age), it will be desirable to divert water run off from the yard to an interceptor to prevent contamination of the land and surrounding area by hydrocarbons and other polluting substances.

In view of the above findings, I would have to advise that this Department has significant reservations about this project, and indeed would object to the planning application in the light of experiences and complaints to date involving this site.

Should the Council see fit to grant the application however, I would recommend restrictions which address the above points to avoid any public health nuisances.”

Noted. Discussion with the consultee subsequent to the above response confirmed the following:

“The bus was left idling for one and half hours, this in itself is an offence under Road Traffic Acts.

The idling offence has been reported to the Health and Safety Executive. Environmental Health had no record of complaints of any matter in respect of Kilmaurs Engineering’s previous activities on site.”

These comments raise serious concerns, however the Committee must be careful to separate out any considerations which arise from poor management practice in relation to the current use of the site and instead consider the proposal in its own right and on its own merits. In this regard the proposal indicates the alteration of the access arrangements and the provision of a landscaped area which should assist in reducing the nuisance impact to the neighbours. This information was available to the Environmental Health Division who are sufficiently concerned as to recommend refusal.

Conditions are proposed by them only should the Council see fit to grant the application. Conditions, however, could be applied such that the most concerning aspects of the proposal were not approved; for example an embargo on any vehicle movements overnight or in the early morning. Conditions could also expand the extent of landscaping to maximise its benefits.

4. REPRESENTATIONS

Objections have been received from 5 individuals and a petition signed by 17 persons has been submitted in respect of this application. Their responses are in addition to the objection from the Council’s Environmental Health Division as noted above (para 3.5) and raise the following issues:

4.1 The access to the site from Irvine Road is unsafe.

Noted. The condition of the existing access has been assessed separately by the Council's Roads Division and is acknowledged as being substandard. As stated above, this access is proposed to be suitably upgraded and the additional requirements can be secured by condition.

4.2 Buses are parked alongside the boundary of my house blocking daylight and reducing my amenity.

Noted. The proposal before the Committee involves the relocation of the existing access and the formation of a landscape strip. These proposals could be developed further to secure an extensive buffer between the site and neighbouring properties.

4.3 The unfinished surface to the rear in dry weather is disturbed by vehicles and leads to additional dust nuisance on cars and washing and forces the closure of windows.

Noted. Again the Council's Environmental Health Division records this nuisance and their objection is noted. This is a matter which could though be resolved by securing an appropriate treatment to the area to the rear such that dust was not thrown up.

4.4 Diesel fumes on occasion cause distress in houses and in garden areas.

Noted. This issue would require careful consideration however, there are controls available to the Council's Environmental Health Division with regard to generation of diesel fumes and indeed excessive idling of engines is an offence which can be addressed by the Police.

4.5 The previous occupiers operated the premises on the basis of 8.00 a.m. – 4.30 p.m. Monday to Friday. This new use causes nuisance and noise outwith these hours and at weekends, particularly in the early morning; as early as 5 a.m. in the morning.

Noted. (see para 3.5 above). It is open to the Committee to consider whether any restriction on the hours of operation might render the use acceptable. Whilst the recommendation from Environmental Health is one of refusal, a condition could be attached which excludes any operation of the bus depot between certain, overnight, hours, thus limiting adverse impacts.

4.6 In addition to the use of the building the area to the rear which was occupied by old greenhouses, was never used. Now it is being used to the detriment of the adjacent residential properties.

Noted. The lack of complaints would appear to confirm that the previous use was less problematic. Although the planning consent in 1979 was for light engineering workshop, the applicant confirms that the previous activities

undertaken on site by Kilmaurs Engineering during past years included sheet metal work involving presses, milling machines and guillotines.

4.7 Why was the bus company allowed to operate so long before making an application?

Noted. A planning application was sought in June 2000 and received in December of that year. It is at the discretion of the planning authority to utilise its enforcement powers and whilst there is an application before the Council or the good prospect of an application, the usual process is to pursue negotiation where it has a prospect of a successful conclusion rather than enforcement to resolve the situation.

4.8 The adjacent use will affect the value of my property.

Noted. This issue is not a relevant planning consideration.

4.9 Unsightly forecourt and surrounding grounds .

Noted. The forecourt area had previously been used for the parking of vehicles associated with Kilmaurs Engineering.

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

Notwithstanding the age of the Adopted Plan the proposal requires to be considered against any relevant policies contained within the Plan. However, there are no relevant policies applicable to this application primarily due to the character of the application.

Accordingly, the proposal is neither in accordance with nor contrary to the Plan, and therefore the application requires to be assessed against other material considerations.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The material considerations relevant to the determination of this application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), correspondence from applicant, impact on amenity of residents, representations received and consultation replies.

6.2 East Ayrshire Local Plan Finalised Version with Modifications (EALP).

The EALP is the most up-to-date plan against which the application should be determined and the Council has agreed that, where appropriate, the EALP shall be a prime material

consideration. Policy IND 8 states that proposals for alternative uses on land currently or formerly used for industrial purposes shall be considered acceptable if the proposed use is: (i) not detrimental to surrounding uses, (ii) the proposal meets with all other local plan policies and (iii) the existence of alternative industrial or business land or premises with potential for future employment use within the settlement concerned.

Criteria (ii) and (iii) are met by this proposal however a bus depot could have a detrimental impact on surrounding residential uses especially the properties to the east of the site with an aspect directly on to the application site. The issue of the scale and position of the use has been the subject of correspondence and meetings with the applicant. Representations to date confirm that the current use is having a detrimental affect on the adjacent housing. A consent on the basis of current operations would be unacceptable. However, it is considered that conditions limiting the extent of the operations could adequately address all the adverse effects. Accordingly, this proposal is considered to be capable of complying with this policy with regard to criteria (i).

6.3 Correspondence from the applicant

A supporting letter submitted on behalf of the applicant describes the core business (school contracts) as follows.

“At present 15 buses are based at Irvine Road, Kilmaurs ranging from minibuses to double-decker buses. The majority of work undertaken by Rowe and Tudhope coaches is school contract work, at the beginning and end of schooldays but also during school time e.g. on swimming pool runs etc. On schooldays buses normally leave Irvine Road at approximately 7.30 a.m. and are back at Irvine Road by approximately 4.30 p.m. At weekends, it is mainly private hire work with Saturday being the busier day, there being little activity on Sundays. With private hires, the return time of buses to Irvine Road can clearly vary depending on the nature of the hire.

At present 13 employees are based at Irvine Road comprising 2 mechanics, 1 office staff, 2 bus attendants and 8 dedicated drivers. The mechanics and office staff are also qualified drivers and undertake driving work in addition to their other activities.”

Noted. The above is accepted as being a reasonable account of the core business. To a degree it confirms a pattern of activity not too dissimilar to ordinary office/industrial working hours on a five day per week basis.

However, the activity of late night and early morning vehicle movement is obviously the source of a considerable weight of objections and the applicant has submitted information on that specific matter. The information is presented on the basis of vehicular movement arriving at and leaving the depot between the hours of 11.30 p.m. to 7.00 a.m over the year from August 2000 to July 2001. The average, per calendar month, is 9 vehicle movements during these hours. The applicant has confirmed that these movements are predominantly Friday nights – Saturday night hires.

No evidence of a similar nature has been submitted by the objectors. It is therefore difficult to refute the accuracy of this information. In meeting with the

applicant they have initially indicated that any restriction on operating hours that could result in the loss of this type of business would not be acceptable to them. However, in subsequent correspondence, that position was altered. That there be no restriction on operating hours was expressed as a preference, but they offered their agreement to a condition restricting vehicle movements between 11.30 p.m. and 7.00 a.m. to 10 in any one day.

This suggestion however would result in a scale of such activity many times the current average as detailed by the applicant's own figures.

Accordingly, it could be reasonably concluded that the current level of nuisance perceived by the objectors would be likely to increase significantly. The option of restricting the hours of operation is available to the Council. A condition of this type would significantly reduce adverse impacts associated with the premises whilst at the same time being capable of enforcement and being compliant, therefore, with the Guidance relative to the use of conditions.

6.4 Impact on the Amenity of Adjacent Residential Development

It has been determined above that the proposal currently has a quantifiable detrimental impact on the amenity of the adjacent residents. On the basis of these impacts the Council's Environmental Health and Waste Management Division concludes that the application should be refused. The option of attaching conditions in an attempt to reduce the impact is recommended by Environmental Health only should it be determined that the application be granted. It is considered that conditions addressing the hours of operation, the surfacing of the yard areas, the provision of screen planting, access and general operating practice would limit the adverse effects of the proposal such that approval would be appropriate.

6.5 Representations Received

As confirmed above there is a strong body of objections to this proposal. The applicant has proposed a possible condition regarding the numbers of vehicle movement which would have the potential of increasing the 'unsociable' hours activity by a considerable degree. This would have an additional impact on neighbouring properties. Given the representations and the comments of Environmental Health, any approval of the use would require to be tightly conditioned.

6.6 Consultation Replies

Clearly the most critical consultation reply is that of Environmental Health and Waste Management whose opposition to the proposal is recorded in paragraph 3.5 above.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications.

8. CONCLUSION

8.1 As is indicated at paragraph 5 above, the application is considered to be neither contrary to nor in accordance with the Development Plan as there are no relevant policies in the Adopted Kilmarnock Local Plan against which to assess the application. Therefore, the proposal should be determined against other material considerations relevant to this application.

8.2 There are a number of significant material considerations of which account must be taken, primarily in relation to the issue of environmental impact. The East Ayrshire Local Plan Finalised Version with Modifications addresses the proposal through Policy IND 8 which concerns non industrial activity being introduced into former industrial sites. The policy seeks to bring industrial buildings and land back to an acceptable alternative economic use. In this case the former Kilmaurs Engineering Company ceased trading in the late 1990's and, at its peak, employed 50 people between 7.30 a.m. and 4.30 p.m. weekdays. There was both Saturday and Sunday working in an enterprise which included engineering and sheet metal working.

8.3 The operation of a bus depot does not lie within any use class as identified by the Town and Country Planning Use Classes (Scotland) Order 1997 but includes some repair and engineering elements consistent with an industrial use.

8.4 The operation of the depot additionally, however, entails activity late at night and into early morning; principally the starting up, reversing and movement of buses. This activity during anti social hours is inconsistent with Policy IND 8.

8.5 Having regard to the terms of Policy IND 8, the past use of the site and the various representations received; the material considerations indicate that it would be appropriate to approve the application subject to conditions mitigating its adverse impacts. In particular it is recommended that use of the garage should not be carried out before 7.00 hrs and after 23.00 hrs Monday-Saturday, nor at any time on a Sunday.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

18 Sept 2001 (IW/SA)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultations.
4. Objection Letters.
5. Correspondence with Applicant.
6. East Ayrshire Local Plan Finalised Version with Modifications.
7. Approved Strathclyde Structure Plan.
8. Approved Ayrshire Joint Structure Plan.

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0172/FL

Site of Proposal:	68 Irvine Road KILMAURS
Natural of Proposal:	Proposed change of use of engineering works to bus garage/depot
Name & Address of Applicant:	Rowe and Tudhope Coaches 151 Main Street MUIRKIRK Cumnock KA18 3QS
Name & Address of Agent:	Lawrence McPherson Associates Suite 1 Beresford Court 6-8 Beresford Lane AYR KA7 2DW

DPOs Reference: IW/SA

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

1. Within a period of three months from the date of this consent, the vehicular access to the site shall be reformed and maintained thereafter, as the sole access as per the approved plans. Notwithstanding the details on these plans the junction radii shall be 9.0 metres to the east and 10.5 metres to the west and the access width shall be 6 metres.

REASON In the interests of road safety and within a timescale taking account of the applicant's existing presence on site and the potential impacts to residential amenity.

2. Other than where the junction is to be formed, the remaining road frontage of the site shall be provided with a full height roadside kerb and a 2 metre wide service strip; these works to be completed within three months of the date of this consent.

REASON In the interests of road safety.

3. Notwithstanding the details shown on the approved plans, the landscaping as shown is not approved. Within a period of three months from the date of this consent a detailed landscaping scheme shall be submitted to for approval by the Planning Authority, the details of which shall accommodate the following requirements. The scheme shall be implemented during the next available planting season:-

(a) a 5 metres wide landscaped screen extending along the entire east boundary of the site from a point aligned with the front building line of no 66 Irvine Road as far as the north east corner of the site. This area shall be planted with tree species and in sufficient numbers, so as to provide an early visual screen.

(b) details of the provision to be made for future maintenance of the landscaped area.

(c) any trees removed without consent of the Planning Authority or seriously damaged at any time thereafter, to be replaced by trees of similar size and species, or as may be agreed in writing by the Planning Authority.

(d) The edge of the planted area abutting the vehicle parking, access and circulation area to be demarked by a full height roadside kerb.

REASON In the interests of residential amenity and within a timescale taking account of the applicant's existing presence on site and the potential impacts to residential amenity.

4. Within a period of one month of the date of this consent, the applicant shall submit to for approval by the Planning Authority details of a tarmacked hard surface (or similar) to be applied to those areas where buses are to circulate or be parked. This surface shall thereafter be implemented within a further 3 months of the Planning Authority agreeing the surface material. The submitted details shall indicate the locations where buses shall be parked and such parking areas/spaces shall be painted on site upon provision of the final surface. No parking of buses shall take place between the main workshop/garage premises and the Irvine Road.

REASON In the interests of residential amenity and road safety and within a timescale taking account of the applicant's existing presence on site and the potential impacts to residential amenity.

5. Within a period of one month of the date of this consent, full details shall be submitted to for approval by the Planning Authority confirming the nature of both foul and surface water drainage arrangements for the site. The surface water run off details shall include the provision of an appropriate oil interceptor which shall be provided within 3 months of the Planning Authority agreeing the details.

REASON To prevent pollution arising from the parking of vehicles and within a timescale taking account of the applicant's existing presence on site and the potential impacts to residential amenity.

6. No surface water shall issue from the site onto the public road.

REASON In the interests of road safety.

7. The use of the premises as a bus garage/depot shall not be carried out, and no idling of bus engines or movement of buses shall be undertaken, before 07.00 hours and after 23.00 hours Mondays to Saturdays, nor at any time on a Sunday.

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

8. Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority as part of the details further to Condition 3 above.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

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PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
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AGENDA