

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 13 JUNE 2003**

**03/0170/FL: PROPOSED PART CHANGE OF USE OF PUBLIC HOUSE TO FORM HOT FOOD TAKEAWAY AND INTERNAL ALTERATIONS AND UPGRADING OF EXISTING KITCHEN EXTRACT VENTILATION SYSTEM AT THE POACHERS REST, 17 RICCARTON ROAD, HURLFORD.**

**APPLICATION BY FONGS PROPERTY LIMITED**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full permission is sought for a part change of use of the public house premises to form a hot food takeaway facility, including internal alterations and for the upgrading of the existing kitchen extract ventilation system.

1.2 In order to form the hot food takeaway facility it is proposed to alter an existing lounge bar area on the ground floor to provide a service counter with a small seating area. Entry to the takeaway facility would be taken from the existing side entrance door off the existing car parking area. A new vestibule would be formed allow for separate access to the takeaway facility and to the remaining lounge bar which is now to be used as a more formal bar restaurant.

1.3 The only external alterations proposed result from the upgrading of the existing kitchen extract ventilation system. The existing flue ducts through the existing single storey flat roof above the kitchen area. It is proposed to extend this ventilation ducting across the flat roof and up the side wall of the two storey part of the public house building and by 1.6 metres above the two storey flat roof.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.1 As indicated in section 5 of the report, the application is 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

application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are either supportive of the proposed development or are not of sufficient weight to justify refusal of the application.

3.2 It is considered that by the use of appropriate conditions, points of objection can be appropriately addressed with some points either not considered to be valid planning objections or being more appropriately dealt with under other statutory powers. It is notable that there is not a significant level of objection to the proposed development.

3.3 The proposed development site lies adjacent to a main thoroughfare in Hurlford and it is not anticipated that there would be undue disturbance resulting from traffic associated with the proposed development.

#### **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 the Development Services Committee as this would not represent a significant departure from the development plan.

**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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**03/0170/FL: PROPOSED PART CHANGE OF USE OF PUBLIC HOUSE TO FORM HOT FOOD TAKEAWAY AND INTERNAL ALTERATIONS AND UPGRADING OF EXISTING KITCHEN EXTRACT VENTILATION SYSTEM AT THE POACHERS REST, 17 RICCARTON ROAD, HURLFORD.**

**APPLICATION BY FONGS PROPERTY LIMITED**

**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 proposed development is subject to objections.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The site lies on the southern side of Riccarton Road in Hurlford and lies immediately opposite the junction of Riccarton Road with Portland Brae. The site comprises the existing two storey public house premises and its curtilage at this location. The curtilage to the east of the public house premises serves as a car park facility associated with the use of the premises as a public house. The surrounding land uses are principally residential although premises immediately adjoining the public house to the west are in both residential and commercial use.

2.2 **Proposed Development:** Full permission is sought for a part change of use of the public house premises to form a hot food takeaway facility, including internal alterations and for the upgrading of the existing kitchen extract ventilation system.

2.3 In order to form the hot food takeaway facility it is proposed to alter an existing lounge bar area on the ground floor to provide a service counter with a small seating area. Entry to the takeaway facility would be taken from the existing side entrance door off the existing car parking area. A new vestibule would be formed allow for separate access to the takeaway facility and to the remaining lounge bar which is now to be used as a more formal bar restaurant.

2.4 The only external alterations proposed result from the upgrading of the existing kitchen extract ventilation system. The existing flue ducts through the

existing single storey flat roof above the kitchen area. It is proposed to extend this ventilation ducting across the flat roof and up the side wall of the two storey part of the public house building and by 1.6 metres above the two storey flat roof.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Environmental and Waste Management Division states that it is noted that the plans do not show the provision of a wash hand basin in the proposed kitchen area. It would be a requirement of this service that a suitably located wash hand basin, with a supply of hot and cold (or appropriately mixed) running water, should be provided. Also, given that a hot food takeaway is being formed and there is a likelihood that the kitchen could be subject to intensive usage (perhaps even late hours), it is imperative that the extraction ventilation ducting is discharged above eaves level of the properties in Riccarton Road (as indicated) in order to avoid serious odour nuisance.

***The submitted plans clearly indicate the provision of a twin sink unit within the extended kitchen area and also one sink unit in the existing kitchen. It is further noted that the extended extract ventilation system has been raised above the eaves level of properties in Riccarton Road in accordance with the requirements the Environmental Health service.***

3.2 The Scottish Environment Protection Agency has no objection to the proposed development on the understanding that the foul drainage is connected to the existing sewer.

***The proposed development will be served through the existing connection to the public sewer.***

3.3 Scottish Water has no comments to make on this application regarding any water issues.

***Noted.***

3.4 East Ayrshire Roads and Transportation Division has no objections to the proposed development.

***Noted.***

3.5 Hurlford and Crookedholm Community Council has not responded to the consultation letter at the time of writing this report.

*Noted.*

#### **4. REPRESENTATIONS**

4.1 Two letters of representation have been received objecting to the proposed development. The main points of objection are summarised below.

4.2 The main item of concern is the construction of a tall chimney which will exit the back of the property and will reach possibly higher than the building itself. As a neighbour directly behind the Poachers Rest, this chimney from the extraction system will be an eyesore and a blight to the surrounding properties.

***The proposed flue from the kitchen extract ventilation system will initially extend across the flat roof of the existing single storey part of the public house premises and will then extend up the external wall of the two storey part of the building to a height of 1.6 metres above this flat roof. The flue will not however extend above the pitched roof of the two storey frontage onto Riccarton Road. Due to its position on the building the flue will not be readily seen from public view. Limited views will be available from properties on Kersland Crescent, however it is considered that given the distances, (35 metres), from these properties to the Poachers Rest premises, there would be minimal adverse visual impacts arising from the installation of the flue.***

4.3 There has not been mention as to which method of filtration, if any, is to be used to clear the smells of cooking from the system before being released into the air. Airborne smells will intrude into homes, gardens and everything in them including home furnishings and laundry on drying lines.

***The proposed height of the flue is designed to allow adequate dispersal of odours to minimise any nuisance arising from cooking food, as advised by the Environmental Health Service. Appropriate filtration methods may require to be used in order to meet requirements of the Environmental Health Service.***

4.4 Noise will no doubt occur from the ventilation and traffic and public using or lingering round the car park of the restaurant and takeaway.

***Given the location of the proposed flue on the building and its relative distance from residential properties it is considered that there should be minimal noise nuisance from the extract ventilation system. The Poachers Rest is an existing public house with an associated car park and lies adjacent to a principal road through Hurlford. It is considered that there would be no significant increase in noise from traffic using the car park or patrons of the restaurant or***

***hot food takeaway facility. It is accepted however that the proposed development lies out of town centre and within a predominantly residential area. It is therefore considered that in order to minimise disturbance to the amenity of neighbouring residential properties, a condition should be attached to any consent granted for the proposed development to restrict the hours of opening of the proposed takeaway facility.***

4.5 Rubbish will accumulate from discarded packaging and food from the takeaway which will eventually find its way into back gardens, car park and front street. This rubbish if stuck in hedges or other obstacles could attract vermin. Unless the garbage from the kitchen is properly disposed of, there could be cats, dogs or even seagulls about.

***A condition can be attached to any consent granted for the proposed development to ensure that litter receptacles are provided within the application site for the use of patrons of the hot food takeaway. The conduct of patrons outwith the application site is clearly not within the control of the applicant. The applicant will require to provide suitable storage containers for the disposal of kitchen wastes in order to prevent nuisance arising from vermin.***

4.6 Devaluation of property could occur if prospective buyers smell, hear or see any of the points raised.

***The alleged devaluation of property is not a material consideration in the determination of this planning application.***

## **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 East Ayrshire Local Plan (2003).

### East Ayrshire Local Plan

5.2 The proposed development falls to be considered against Policy RTC15 relating to Public Houses and Hot Food Takeaways which states:

*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 the Council's Design and layout policies;*

***The proposed development relates to a part change of use of the existing public house premises to form a hot food takeaway facility. It is considered that the proposals do not conflict with policy in this regard.***

- (ii) *meet with the requirements of the Council as Roads Authority;*

***The Roads and Transportation Division does not object to the proposed development.***

- (iii) *do not have a detrimental effect on the amenity of adjacent properties by reason of noise, litter, odour or other disturbance;*

***It is accepted that the proposed development will be located outwith the established town centre of Hurlford. However, the proposal relates to the part change of use of existing public houses premises which, as a 'bad neighbour' type of development has been established at this location for some considerable time. It is considered that by the use of appropriate conditions, any detrimental impact on adjacent properties by reason of noise, litter, odour or other disturbance should be contained within acceptable levels and be of no greater detriment than the existing use of the premises as a public house.***

***It is considered that the proposed development does not therefore conflict with Policy RTC15.***

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses and the representations received.

### Consultations Responses

6.2 The consultation responses do not indicate that the application should be refused.

### Representations

6.3 It is considered that by the use of appropriate conditions, points of objection can be appropriately addressed with some points either not considered to be valid planning objections or being more appropriately dealt with under other statutory powers.

## **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 indicated in section 5 of the report, the application is 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 application should be approved unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to this application, however it is considered that these are either supportive of the proposed development or are not of sufficient weight to justify refusal of the application.

8.2 It is considered that by the use of appropriate conditions, points of objection can be appropriately addressed with some points either not considered to be valid planning objections or being more appropriately dealt with under other statutory powers. It is notable that there is not a significant level of objection to the proposed development.

8.3 The proposed development site lies adjacent to a main thoroughfare in Hurlford and it is not anticipated that there would be undue disturbance resulting from traffic associated with the proposed development.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be 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 the Development Services Committee as this would not represent a significant departure from the development plan.

**Alan Neish**  
**Head of Planning and Building Control**  
03 June 2003

HM/HM  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

***Implementation Officer: Dave Morris***

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0170/FL

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Location	The Poachers Rest, 17 Riccarton Road, HURLFORD
Nature of Proposal:	Proposed part change of use of public house to form hot food takeaway and internal alterations and upgrading of existing kitchen extract ventilation system
Name and Address of Applicant:	Fongs Property Ltd., 3 Moorpark Place, PRESTWICK, KA9 2NH
Name and Address of Agent	Darley Hay Partnership, 54A Sandgate, AYR, KA7 1BX

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DPO's Ref:  
PPO's Ref: Hugh Melvin

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

1. The proposed extract ventilation system to be installed as part of the proposed development shall be so designed and operated thereafter to ensure that there shall be no significant adverse impact on the amenity of nearby residential properties through either noise or odorous emissions.

REASON – In the interests of residential amenity.

2. The applicant shall provide suitable litter receptacles within the application site for the use of patrons and these receptacles shall be emptied on a daily basis.

REASON – In the interests of residential amenity and to prevent any nuisance arising from vermin.

3. The opening hours of the hot food takeaway facility shall be restricted to between 1200 hours and 2300 hours on a daily basis.

REASON – In the interests of residential amenity and to prevent disturbance to residents in the locality from activities resulting from the operation of the hot food takeaway during late evening hours.

4. The applicant shall make appropriate provision for the storage and disposal of wastes arising from the operation of the hot food takeaway facility.

REASON – In the interests of amenity and public health.

#### Note to Applicant

1. The applicant is advised to make early contact with the Planning and Building Control Division, 6 Croft Street, Kilmarnock with respect to any new signage associated with the proposed development that may require express consent from the Council under The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.