

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 27 APRIL 2001

**01/0164/FL : CHANGE OF USE FROM SHOP TO TAXI OFFICE AT
30 MAIN STREET, DALMELLINGTON**

APPLICATION BY MR KENNEDY

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the change of use of the former shop to a taxi office. The proposal also involves the erection of an aerial on the outside of the building. This has already been erected, and consists of a pole mounted aerial which is attached to the southern gable of the building. No other external alterations are proposed.

1.2 It is proposed to re-locate the business from a property in High Main Street. The business operates between 9:00am to 3:00am, Sundays to Fridays and 9.00am to 11.00pm on Saturdays. At present, The applicant's existing office closes at 11.00pm on Saturdays, when calls are thereafter taken from the applicant's house. It is proposed that the business will continue to operate within these hours.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.3 As is indicated at paragraph 5.2 in the report, the application is considered to be contrary to 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 refused unless material considerations indicate otherwise. As is indicated in Section 6 in the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan.

3.3 Given the previous use of the property as shop, and its location within the town centre boundary, the proposed use is in accordance with the policy provisions of the relevant retail policies of the EALP.

3.3 In terms of the points of objection, it is considered the use of the property as a taxi business, within the mixed use area of Main Street, will not be significantly detrimental to residential amenity. This area is currently characterised by a number of retail/commercial uses. In terms of the loss of a retail use, it is not considered the proposed change of use would harm local shopping provision. The Roads Division have no objection to the proposed development in terms of road safety or traffic congestion.

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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APPLICATION BY MR KENNEDY

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 proposal is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site lies within Dalmellington Conservation Area on the south side of Main Street, Dalmellington, approximately 100 metres west of its junction with High Main Street. The site forms part of a traditional two-storey stone building in a mixed use area of predominantly retail and residential use. No. 30 Main Street comprises a shop on the ground floor and a flat on the first floor.

2.2 **Proposed Development :** Full planning permission is sought for the change of use of the former shop to a taxi office. The proposal also involves the erection of an aerial on the outside of the building. This has already been erected, and consists of a pole mounted aerial which is attached to the southern gable of the building. No other external alterations are proposed.

2.3 It is proposed to re-locate the business from a property in High Main Street. The business operates between 9:00am to 3:00am, Sundays to Fridays and 9.00am to 11.00pm on Saturdays. At present, The applicant's existing office closes at 11.00pm on Saturdays, when calls are thereafter taken from the applicant's house. It is proposed that the business will continue to operate within these hours.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Damellington Community Council has not responded to the consultation letter.

3.2 East Ayrshire Council's Roads and Transportation Division has no objection to the proposed development. They advise that the whole length of Main Street is currently congested due to the narrow width of the street and modern traffic volumes. Revision of the waiting restrictions are to be investigated. The applicant has stated that taxis will only stop briefly to collect customers from the office.

Noted.

4. REPRESENTATIONS

4.1 Five letters of objection have been received with regard to the proposed change of use. Seven letters of support, including a petition with 424 names have also been received. A supporting letter has also been received from the applicant. The letters of objection are summarised as follows:

4.2 Although Main Street has a large proportion of retail outlets and indeed also has two licensed premises, in the main, the present level of activity is confined to daytime hours. There are a number of residents in the immediate surrounding area who are entitled to some peace and quiet during evenings and weekends. A taxi office would no doubt attract customers in the evening and at weekends (possibly upon leaving the licensed premises) and there is likely to be additional anti-social noise created. There is already a problem with late night pedestrians from the public houses in the area, which causes enough inconvenience without the addition of taxis stopping and starting outside residential properties. The coming and going of taxis certainly would lead to social disturbance and would therefore have an environmental impact.

It is acknowledged that nearby residents may experience some disturbance from the proposed use, however due to the current level of noise and activity within this area of Main Street, it is not considered that the taxi business would be significantly detrimental to residential amenity.

4.3 Another objector states that the road outside their house is narrow, and the entrance to their property is difficult. Upon occasions, it is impossible to actually gain entry to this property. Any increase in vehicular parking from the proposed taxi business will escalate the problem.

Taxis and other vehicles should only be parking within the limited waiting area. If an access is being obstructed, this is a police matter.

4.4 The change of use of the factory site in Dalmellington shortly, to be opened as an area centre/health centre, will add to the traffic pressures within close proximity to the proposed development. Although parking will be provided to the rear of the area centre, it will be difficult to prevent added

pressure on street parking in Main Street. The proposed development of a taxi office will undoubtedly add to that pressure.

It is acknowledged that there is currently traffic congestion within this area of Main Street. There is however currently a limited waiting time for cars outside 30 Main Street. This limits vehicles to parking, between 9.00 and 1730 Mondays to Saturdays, for a maximum of 30 minutes, with no return within 30 minutes. Waiting time for taxis within this area is therefore restricted. Any breach of these parking restrictions is a police matter. The Roads Division is also investigating a revision to the current waiting restrictions

4.5 The aerial is not acceptable within a Conservation Area. The aerial may adversely affect television and radio reception.

The aerial is mounted on a long white pole which is attached to the gable wall. To minimise the visual impact of this pole, a condition could be attached to any planning consent, requiring the pole to be painted grey. The applicant has advised that their radios are fitted and tested by the Department of Trade and Industry and should not affect television and radio receptions. A condition can be applied which further addresses this concern.

4.6 The business will result in an increase in the number of people in the area who will drop litter.

It is not considered that the taxi business would result in a significant increase in litter.

4.7 This village needs shops and small businesses to strengthen the community's social well being. These particular premises have been retail outlets for a long time and it would be a backward step to allow this change.

To secure the vitality and viability of town centres it is important that a wide range of uses be provided. The property has been vacant for approximately 4 months. The proposal therefore provides an opportunity to re-use a vacant property. Furthermore, the change of use of the shop to a taxi business complies with the retailing policies contained within the East Ayrshire Local Plan, Finalised Version with Modifications (See Paragraphs 6.3 & 6.4).

4.8 The applicant has submitted a letter of support with regards to the proposed change of use. These points are summarised as follows:-

4.9 With regards to an increase in noise and activity, 85% of their custom comes through the telephone after 6.00pm. Most of the people who use the office, use it during the day as many of their customers consist of the elderly, disabled, and young mothers. Pedestrians late at night in Dalmellington is

already common. Their business has a good reputation and they have not had any complaints from any of the residents near their existing business.

Noted.

4.10 Radios which are fitted and tested by the Department of Trade and Industry are fitted in all their cars. Their radios do not interfere with any other radio equipment.

Noted.

4.11 The street in front of the premises is no narrower than the rest of Main Street, and large delivery vans have no problems. Furthermore, the owner of the adjacent car park has given permission for their vehicles to park there.

Noted.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application, the development plan comprises the Adopted Ayrshire Joint Structure Plan and the Adopted Dalmellington/Patna/Dalrymple Local Plan (1989). The Adopted Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policies 13 and 37 of the Plan.

5.2.1 Policy 13 states that development detrimental to the amenity of nearby dwellinghouses will not be permitted within areas of mixed uses.

Whilst it is not considered that the proposed taxi business would be significantly detrimental to residential amenity, the proposed use will result in an increase in noise and activity in this area. The proposed development is therefore contrary to Policy 13 of the Adopted Local Plan.

5.2.2 Policy 37 states that there will be a presumption in favour of retaining retail and commercial use.

The proposed change of use of a shop to a taxi business would comply with Policy 37 of the Local Plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material consideration relevant to the determination of the application is the East Ayrshire Local Plan, (Finalised Version with Modifications) (2001).

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 as a prime material consideration. The site is affected by Retailing and Environment Policies.

6.3 Policy RTC2 states that types of development detailed in Schedule 5 of the Local plan will be considered acceptable, in principle, within town centres and on those development opportunity sites identified as being suitable for such purposes on the Local Plan maps.

A taxi business use falls within Schedule 5 of the EALP and the proposed site is located within the Town Centre of Dalmellington, as defined by the plan. The proposed development therefore complies with Policy RTC2 of the plan.

6.4 Policy RTC11 states that where a property falling within the classes of development detailed in Schedule 5 of the Local Plan becomes vacant or where a gap or infill site is available for redevelopment within Town Centres, the Council will encourage and support the re-use of the property or redevelopment of the site for appropriate similar Schedule 5 uses.

Both the previous use as a shop, and the proposed use as a taxi business, fall within Schedule 5 of the EALP. The proposed use is therefore consistent with the above policy.

6.5 Policy ENV4 states that the Council will seek to ensure that development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. Wherever possible, all proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

The only external alteration proposed is the siting of a pole mounted aerial on the outside of the building. This aerial has already been erected on site. It is considered that if the pole is painted grey, it would not adversely affect the character of the Conservation Area.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 above, the application is considered to be contrary to 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 refused unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan.

8.2 Given the previous use of the property as shop, and its location within the town centre boundary, the proposed use is in accordance with the policy provisions of the relevant retail policies of the EALP.

8.3 In terms of the points of objection, it is considered the use of the property as a taxi business, within the mixed use area of Main Street, will not be significantly detrimental to residential amenity. This area is currently characterised by a number of retail/commercial uses. In terms of the loss of a retail use, it is not considered the proposed change of use would harm local shopping provision. The Roads Division have no objection to the proposed development in terms of road safety or traffic congestion.

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
2 April 2001
VE/VE
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.

3. Consultation Responses.
4. Letter of Representation.
5. East Ayrshire Local Plan, Finalised Version with Modifications.
6. Dalmellington/Patna/Dalrymple Local Plan.
7. Adopted Ayrshire Joint Structure Plan.

Any person wishing to inspect the background papers listed above should contact Miss Vivien Emery on 01563 555485.

Implementation Officer: Dave Morris

Application no: 01/0164/FL

Location	30 Main Street Dalmellington
Nature of Proposal:	Change of Use from Shop to Taxi Office at 30 Main Street, Dalmellington
Name and Address of Applicant:	Mr Kennedy 154 Merrick Drive Bellsbank DALMELLINGTON KA6 7TN
Name and Address of Agent	

DPO's Ref: [VIVIEN EMERY]
PPO's Ref; []

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, plan and letter received on 12 March 2001.

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

(2) Prior to the operation of the taxi office, the pole on the gable wall which supports the aerial shall be painted grey to the satisfaction of the Planning Authority.

REASON - In the interests of visual amenity.

(3) The specification and operation of the associated radio aerial shall be such that there is no detrimental impact on the reception of television and/or radio signals by adjacent properties.

REASON – In the interests of residential amenity.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA