

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE – 10 AUGUST 2001

**01/0356/FL : PROPOSED CHANGE OF USE OF FLORIST/GIFT SHOP TO
HAIRDRESSER'S/GIFT SHOP AT 19 HIGH STREET, MAUCHLINE
FOR MR IAN KERR HOWIE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought to legitimise the use of the premises as a hairdressing business which is presently operating without the benefit of planning permission. The applicant also proposes to undertake body piercing within the premises. No external alterations are proposed to the building.

1.2 Prior to its use as a hairdresser's, the property was in use as a florist's/gift shop. A condition on that planning permission precluded any other use of the premises within Use Class 1 without first gaining planning permission. This was specifically to control the use of the premises should their use, for example, as a funeral undertaker's be proposed. The Committee should therefore note that a change of use from florist's shop to a hairdressing salon would not normally require planning permission.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 As indicated at Paragraph 5.1 in the report, the proposed development 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 indicated at Paragraphs 6.3 and 6.4 in the report, there are material considerations relevant to this application, but in this regard the East Ayrshire Local Plan (Finalised Version) with Modifications would not preclude the proposed development. The proposal will not affect the vitality and viability of the town centre of Mauchline.

3.2 Objections have been received in respect of privacy, noise and road safety. However, the objections have either not been substantiated through the consultation process or have not been considered to justify a refusal of the

application. Should the application be approved, the objection relating to a reduction in privacy can nevertheless be addressed by the inclusion of a condition on the planning permission, requiring the application to adequately signpost the business.

Alan Neish
Head of Planning and Building Control

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

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Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full retrospective planning application which is to be considered by the Local Planning Committee under the Scheme of Delegation as the application is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a single storey former workshop building situated adjacent to two flatted residential properties on High Street, Mauchline. The site is set back approximately 6 metres from the footway and the adjacent residential properties form a front courtyard, laid out as a garden area associated with the adjacent flats. The access to the hairdressing business is taken from High Street and crosses the garden area.

2.2 **Proposed Development:** Full planning permission is sought to legitimise the use of the premises as a hairdressing business which is presently operating without the benefit of planning permission. The applicant also proposes to undertake body piercing within the premises. No external alterations are proposed to the building.

2.3 Prior to its use as a hairdresser's, the property was in use as a florist's/gift shop. A condition on that planning permission precluded any other use of the premises within Use Class 1 without first gaining planning permission. This was specifically to control the use of the premises should their use, for example, as a funeral undertaker's be proposed. The Committee should therefore note that a change of use from florist's shop to a hairdressing salon would not normally require planning permission.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has no comment to make on the proposal.

Noted.

3.2 East Ayrshire Council's Environmental Health and Waste Management Section has no objection to the proposal. It does however advise that the applicant should provide details of the internal layout in view of the applicant's wish to carry out body piercing and information on wall finishes.

Should the application be approved, an appropriate note in respect of the above can be attached to the planning permission.

4. REPRESENTATIONS

One letter of objection has been received in respect of this application. The points of objection can be summarised as follows:-

4.1 The access to the premises via the private garden/courtyard area has compromised the privacy of the occupiers of one of the adjacent residential premises. This has been exacerbated on occasions where patrons of the hairdressing business have mistakenly called at the adjacent flat.

It is not considered that the use of the premises as a hairdressing salon would bring about a reduction in privacy to any greater extent that had they still been in use as a florist's/gift shop. Nevertheless, it is accepted that the occupiers of the adjacent flat could be frustrated by patrons calling at their door by accident. It is therefore considered that should planning permission be granted, a condition can be included on the planning permission requiring the applicant to adequately sign the location of the hairdressing business.

4.2 There has been an unacceptable level of noise from the premises during the period within which the conversion to a hairdressing salon was being carried out.

It should be expected that a level of disturbance will occur during any period of building/alteration works. Given that the alterations carried out are now complete and the business has started trading, this disturbance will have ceased.

4.3 Anti-social behaviour among the type of persons attracted to a body piercing service.

It is not a function of the Planning Authority to control anti-social behaviour and as such, it is not a planning consideration.

4.4 Impact on road safety due to an increased number of cars attracted to the site.

As noted above, the Roads and Transportation Division has no objection to the application.

4.5 Concern over the public health and safety aspect of the various services offered on the premises.

Whilst this is not specifically a planning consideration, the Environmental Health and Waste Management services has stated that it has no objection to the proposal.

Forty-four letters and a petition with 103 signatures have also been received in support of the application. The representations in support relate to:-

4.6 The view that the hairdressing salon is a much needed and invaluable facility.

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 Approved Ayrshire Joint Structure Plan (1999) and the Adopted Mauchline-Drongan-Ochiltree Local Plan (1995). The Adopted Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the application site lies within a mixed-use area and as such requires to be determined with regard to Policy COM1. Policy COM1 presumes against the change of use from retail to non-retail.

It is considered that the application complies with Policy COM1 of the Adopted Mauchline-Drongan-Ochiltree Local Plan.

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 planning history of the site and the objections detailed above.

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.

6.3 The application site lies outwith the town centre boundary as defined in the EALP and is therefore contrary to Policies RTC1 and RTC3. As a result, Policy RTC5 applies. Policy RTC5 states that where developments of the types detailed in Schedule 5 of the Local Plan are proposed outwith town centre boundaries, these will require to be justified and will be assessed against a number of criteria. Parts (i) (iv) and (v) of Policy RTC5 are most relevant.

- (i) Compliance with the sequential approach detailed in Policy RTC1:

In assessing development proposals for retail, commercial leisure and other developments outwith town centres, a sequential approach shall be applied demonstrating that there are no available town centre locations or edge of centre locations before locating in the application site. As is indicated in Paragraph 2.3 above, planning consent is required in this instance only because of a condition removing the usual permitted development right of introducing another use within the same use class. The proposal is neither the first introduction of a retail use, nor is it an extension to an existing retail use and it is considered that strict compliance with Part (i) of Policy RTC1 (sequential test) is not appropriate in such circumstances. It is also the case that in considering the current use of the site, that earlier application was subject to a sequential test which resulted in retail activity being established on site.

- (iv) Compatibility of the use with surrounding uses:

It is considered that the proposal will not be incompatible with adjacent residential activity and the site's close proximity to the town centre is also noted.

- (v) Quality of the design and finish of the proposal and its contribution to the environmental quality, character and amenity of the area:

No external alterations are proposed, although by condition it is recommended that signage be provided to identify the entrance to the hairdressing and body piercing service.

6.4 Planning History : A previous application (Ref. No. 00/0664/FL) for the change of use of a store at this site to form a florist/gift shop was approved by the Southern Local Planning Committee on 01 December 2000. A condition was attached to the planning consent to restrict the use of the premises to the florist/gift shop use only, removing permitted development rights under the Town and Country Planning (Use Classes) (Scotland) Order 1997.

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 at Paragraph 5.1 above, the proposed development 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 indicated at Paragraphs 6.3 and 6.4 above, there are material considerations relevant to this application, but in this regard the East Ayrshire Local Plan (Finalised Version) with Modifications would not preclude the proposed development. The proposal will not affect the vitality and viability of the town centre of Mauchline.

8.2 Objections have been received in respect of privacy, noise and road safety. However, the objections have either not been substantiated through the consultation process or have not been considered to justify a refusal of the application. Should the application be approved, the objection relating to a reduction in privacy can nevertheless be addressed by the inclusion of a condition on the planning permission, requiring the application to adequately signpost the business.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control
27 July 2001
DS/SMB
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Consultation responses.
3. Letters of representation.
4. East Ayrshire Local Plan.
5. Adopted Mauchline-Drongan-Ochiltree Local Plan
6. Approved Ayrshire Joint Structure Plan.
7. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the background papers listed above, should contact Derek Scott on 01563 555483.

Implementation Officer : Dave Morris

Application no: 01/01356/FL

Location	19 High Street MAUCHLINE KA5 6AJ
Nature of Proposal:	Proposed change of use of florist/gift shop to hairdresser's/gift shop
Name and Address of Applicant:	Mr Ian Kerr Howie 37 Gordon Street CATRINE KA5 6PQ
Name and Address of Agent	

DPO's Ref: DEREK SCOTT]
PPO's Ref; []

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

1. Notwithstanding the provisions of the (General Permitted Development) (Scotland) Order 1992, and the Town and Country Planning (Use Classes) (Scotland) Order 1997, this permission relates to the retailing of gifts and the operation of a hairdresser's only, and the further express permission of the Planning Authority shall be required in respect of the proposed retailing of any other type of goods or service.

REASON – To retain effective planning control over the use of the premises in the interests of residential amenity.

2. Within three weeks from the date of this permission, details of appropriate signage, clearly demarking the location of the entrance to the hairdressing and body piercing service, shall be submitted to the Planning Authority for approval.

REASON – In the interests of residential amenity.

3. The signage, once approved, shall be installed on site within two months from the date of such approval and thereafter maintained in a neat and tidy condition at all times.

REASON – In the interests of residential and visual amenity.

Note:

1. The applicant shall make early contact with East Ayrshire Council's Environmental Health and Waste Management Service, Western Road, Kilmarnock KA3 1LL, with regard to the internal finishes and arrangements for the body-piercing service.

AGENDA