

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE – 10 AUGUST 2001**

**01/0287/FL – PROPOSED USE OF EXISTING GARAGE YARD FOR  
OVERNIGHT PARKING OF HGV VEHICLES AT AYR ROAD GARAGE,  
DALMELLINGTON**

**APPLICATION BY MR W JOHNSTONE**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Detailed planning permission is sought for the change of use of the garage yard to an overnight parking area for Heavy Goods Vehicles (HGV). It is proposed to park up to 10 HGVs within the site at any one time. The vehicles would leave and enter the site between the hours of 5.30pm and 8.30am. It is not proposed to carry out any repair works to the vehicles within the site.

**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 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 at paragraph 6.3 in the report, there are material consideration 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.

3.2 The proposed development does generally accord with Policy IND6 which relates to business developments on land not specifically safeguarded for such purposes. The site lies within a mixed use area, adjacent to an A class road, where an increased level of noise and activity already exists. It is not therefore considered that the proposed development would unreasonably affect the quiet enjoyment of nearby dwellings.

3.3 With regard to the objections received, concerns regarding road safety have not been echoed by the Roads Division and concerns regarding pollution have not been echoed by Environmental Health or SEPA. Concerns regarding the noise of vehicles can be alleviated by attaching a condition to any planning consent restricting the number of vehicles to be parked within the site and preventing the maintenance of any vehicles within the site.

**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 W JOHNSTONE**

**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 an objection.

**2. APPLICATION DETAILS**

2.1 The site lies to the south side of the A713 Ayr Road, Dalmellington, approximately 140 metres south westwards of its junction with Main Street. The site forms part of the curtilage of a petrol filling station which has a frontage to Ayr Road. Although associated with the petrol station the site was vacant prior to the implementation of this use (this is a retrospective application). The site is bound by vacant land to the south, east and west and by the former petrol station to the north east.

2.2 **Proposed Development:** Detailed planning permission is sought for the change of use of the garage yard to an overnight parking area for Heavy Goods Vehicles (HGV). It is proposed to park up to 10 HGVs within the site at any one time. The vehicles would leave and enter the site between the hours of 5.30pm and 8.30am. It is not proposed to carry out any repair works to the vehicles within the site.

**3. CONSULTATIONS AND ISSUES RAISED**

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

***Noted.***

3.2 West of Scotland Water has no adverse comments to make on the proposed development.

***Noted.***

3.3 East Ayrshire Roads and Transportation Division has no objection to the proposed development as this is an existing garage with fueling facilities for HGVs. Additional HGV movements in and out of the yard should not cause any problem. Any future over-running of the footway or damage to the public road/footpath by HGV movements would result in the operator being pursued to carry out repairs under Roads legislation.

***Noted.***

3.4 East Ayrshire Council, Environmental Health Division advises that a number of complaints have been received by it regarding noise generated in the early hours of the morning caused by the starting and running of lorries. It is understood that the practice of keeping HGVs at this location pre-exists, although in lesser numbers than proposed in this application, and would suggest that approval of this application would exacerbate the situation. Should justified complaints be received in the future, the Division could restrict hours of operation by means of notice under the Environmental Protection Act 1997.

***Noted.***

3.5 The Scottish Environment Protection Agency advises that it has no objections in principle to the proposed development provided the drainage arrangements are to its satisfaction. In this regard, any contaminated drainage from the development must be connected to the oil interceptor which is already installed on site.

***A note can be attached to any planning consent advising of the above.***

#### **4. REPRESENTATIONS**

4.1 One letter of objection has been received with regard to the proposed development. This is summarised as follows:

4.2 The lorries have been operating from this site before permission has been granted.

***This is a retrospective application which was submitted following a complaint to the Planning Division's Enforcement Officer. The fact that this application is retrospective is not a valid ground of objection to the development.***

4.3 They object in terms of noise levels. The lorries exit the site between 4am and 8am and enter between 4pm and 8pm, including Saturdays and Sundays. Vehicles are left unattended with their engines running for between 20 and 30 minutes. Noise is created by lorries driving over the rough, untarred surface, and by reversing beepers when hooking onto trailers.

***It is acknowledged that the proposal will generate noise during unsociable hours. The residential properties affected are however located on the main Dalmellington to Ayr Road (A Class) which already experiences regular movement of heavy vehicles.***

4.4 In terms of visual intrusion, the headlights shine in their lounge and bedroom windows and by drivers looking into windows. Furthermore, their outlook of hillside and woods is blocked when lorries are lined and parked.

***It is proposed to use the existing entrance to the garage, which both cars and heavy goods vehicles presently use. Given that the proposal would only result in an additional 10 vehicles per day i.e 20 vehicle movements utilising this access, it is not considered that the proposal would result in significant visual intrusion.***

***A right to a view is not a material consideration in the determination of this application.***

4.5 There is a vibration when lorries enter and leave the site. Furthermore there is a problem with fumes and pollution, particularly with clouds of dust being generated when lorries are driving over and turning on the rough dry surface.

***This A class road already experiences regular movement of heavy vehicles. Concerns regarding fumes/pollution have not been echoed by Environmental Health or SEPA.***

4.6 There is a danger to both public and other road users on this A713 road as when the vehicles are filling with fuel, they are virtually sitting out on the road and limiting the A713 to a single lane road when queuing up at night. Can the Roads Division survey the damage being caused to the pavements and kerbstones at the entrance?

***These concerns have not been echoed by the Roads Division. The adjacent footway was inspected, and the Roads Division advises that if any future damage to the public road/footpath is caused by HGV movements, the operator will be required to carry out the necessary repairs under the roads legislation.***

## **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 (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 Housing Policy 12 which states that the character of existing residential areas will be retained.

***Although this is a mixed use area, it is considered that the proposed development would alter the character of the area. The proposed development is therefore contrary to the provisions of the Adopted 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 and the objections assessed in Section 4 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 site is affected by Policy IND6 in the EALP which states that all proposals for new industrial or business development on land not specifically identified for such purposes on the Local plan maps will require to be justified against all of the following criteria:

- (i) locational need;

***The applicant wishes to operate his business from the Dalmellington Area and currently leases the site from the owner of the garage.***

- (ii) availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;

***There is very little alternative existing industrial land in Dalmellington and no identified industrial opportunities. The applicant does however operate from another established site within Dalmellington. This site lies adjacent to a residential area, and is identified for housing within the EALP.***

- (iii) economic benefit;

***It is likely that the proposal will have limited economic benefit.***

- (iv) impact on surrounding environment and adjacent uses;

***The site lies within a mixed use area. It lies directly to the rear of a petrol filling station, with the nearest residential properties being 65 metres north of the site (directly across the road from the garage), and 40 metres eastwards. Whilst it is acknowledged that there will be additional vehicle movements and increased activity within the site, often during unsociable hours, this is an established commercial site. Furthermore, the residential properties most likely to be affected are located on the main Dalmellington to Ayr Road, which already experiences regular movement of heavy vehicles. A condition can be attached to any planning consent which would prevent any maintenance work on the vehicles taking place within the site. This would ensure that the site is used for the parking of vehicles only.***

- (v) transportation and infrastructure implications;

***East Ayrshire Roads and Transportation Division has no objection to the proposed development.***

## **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 at paragraph 6.3 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 The proposed development does generally accord with Policy IND6 which relates to business developments on land not specifically safeguarded for such purposes. The site lies within a mixed use area, adjacent to an A class road, where an increased level of noise and activity already exists. It is not therefore considered that the proposed development would unreasonably affect the quiet enjoyment of nearby dwellings.

8.3 With regard to the objections received, concerns regarding road safety have not been echoed by the Roads Division and concerns regarding pollution have not been echoed by Environmental Health or SEPA. Concerns regarding the noise of vehicles can be alleviated by attaching a condition to any planning consent restricting the number of vehicles to be parked within the site and preventing the maintenance of any vehicles within the site.

## **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  
18<sup>th</sup> July 2001  
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. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

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

**Implementation Officer: Dave Morris**

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Location	Ayr Road Garage, Dalmellington
Nature of Proposal:	Use of existing yard for overnight parking of HGV vehicles
Name and Address of Applicant:	Mr W Johnstone 10 Armour Wynd Dalmellington
Name and Address of Agent	Mr T Bowie 10 Gateside Road Dalmellington

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

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

- (1) On Sundays, vehicle movements shall only take place between the hours of 10.00am to 6.00pm.

REASON: In the interest of residential amenity.

- (2) No vehicle maintenance or washing of vehicles shall take place at any time within the site.

REASON: In the interest of residential amenity.

- (3) All parking of heavy goods vehicles shall take place within the application site.

REASON: In the interest of residential amenity.

- (4) No storage of parts/materials associated with the Heavy Goods Vehicles shall take place within the application site.

REASON: In the interests of residential and visual amenity.

- (5) No more than 10 heavy goods vehicles shall be parked within the application site at any time.

REASON: In the interests of residential and visual amenity.

#### NOTES

1. The Scottish Environment Protection Agency advises that drainage from the development should include a heavy fuel interceptor and the applicant is advised to contact SEPA in this respect.

**AGENDA**