

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 02 FEBRUARY 2001

**00/0819/FL : PROPOSED SITING OF A FISH AND CHIP VAN AND
MANUAL CAR WASH/VAC (RETROSPECTIVE) AT THE FORMER
GARAGE, AYR ROAD, PATNA
FOR MR AND MRS McWILLIAMS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This retrospective application concerns the siting of a fish and chip van, manual car wash and car vacuum cleaner within the curtilage of the former petrol filling station. The car wash consists of a compressor measuring approximately 1 metre by 2 metres high and high pressure hoses. It is situated to the south of the shop, 20 metres from the B713 and adjacent to the boundary wall and hedge of the property to the rear. The car vacuum is situated adjacent to the car wash and measures approximately 0.75 metres wide by 1.5 metres high. The fish and chip van trades from the forecourt of the former filling station, in front of the shop. When the vehicle is not trading, it is stored off the premises. The applicant has stated verbally that he is prepared to accept that, should the application be granted, any consent may be time limited.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 As indicated in paragraph 5.1 above, 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 indicated at paragraph 6.2 above, there are material considerations relevant to this application. However, these are also generally supportive of the application.

3.2 Whilst a development of this nature may give rise to a possible odour nuisance, it is considered that, should the application be granted, appropriate conditions can be included on the planning permission which would reduce any negative impact on the surrounding premises as well as limiting the consent to two years. Likewise, spray from the car wash can be contained by

requiring the applicant to provide a splash barrier as a condition of the planning permission. It is therefore considered that the proposal would not give rise to a significant reduction in the amenity of surrounding properties. It is in accordance with both Policy 13 of the Adopted Dalmellington/Patna/Dalrymple Local Plan and Policy RTC13 of the East Ayrshire Local Plan.

3.3 The other points of objection raised have either not been substantiated in the consultation process or are not considered to be material planning considerations.

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 planning application which is to be considered by the Local Planning Committee under the Scheme of Delegation as the application is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a former petrol filling station, garage and forecourt on the east side of the A713, Ayr Road, Patna. The petrol filling station is presently in use as a shop. The petrol pumps and other apparatus associated with the former use have been removed, although the forecourt canopy remains. A public house is situated adjacent to the northern boundary of the site whilst a residential home for the elderly lies to the south of the site. To the rear of the site is situated a dwellinghouse and a storage area for coaches. The land opposite the site is open space.

2.2 **Proposed Development:** This retrospective application concerns the siting of a fish and chip van, manual car wash and car vacuum cleaner within the curtilage of the former petrol filling station. The car wash consists of a compressor measuring approximately 1 metre by 2 metres high and high pressure hoses. It is situated to the south of the shop, 20 metres from the B713 and adjacent to the boundary wall and hedge of the property to the rear. The car vacuum is situated adjacent to the car wash and measures approximately 0.75 metres wide by 1.5 metres high. The fish and chip van trades from the forecourt of the former filling station, in front of the shop. When the vehicle is not trading, it is stored off the premises. The applicant has stated verbally that he is prepared to accept that, should the application be granted, any consent may be time limited.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has no objection to the proposal subject to the inclusion of conditions on the planning permission relating to the discharge of surface water onto the B713, visibility at the site's access and the provision of off-road car parking.

Should the application be granted, appropriate conditions in respect of the above could be attached to the planning permission.

3.2 East Ayrshire Council's Environmental Health Section has no objection to the proposal subject to the inclusion of a condition on the planning permission requiring the installation of an odour extraction/filtration system on the fish and chip van.

Should the application be granted, an appropriate condition in respect of the above could be attached to the planning permission.

3.3 East Ayrshire Council's Licensing and Community Safety Section has stated that the applicant's street traders' licence prohibits him from trading within 50 metres of the Swallow Inn. Accordingly, the applicant would not be able to comply with the conditions of his street traders' licence irrespective of whether planning permission was granted or not.

The Ayrshire Valuation Joint Board has stated that, should the application be granted, the fish and chip van can be included on the rates for the former filling station. The street traders' licence would not then be required. The applicant has indicated, in writing, that he is prepared to include the fish and chip van on the rates for the former filling station premises, in the event planning permission is granted.

3.4 British Gas Transco and the Coal Authority have no objection to the proposal.

Noted.

4. REPRESENTATIONS

Two letters of objection from the occupiers of adjacent properties and a letter supporting the proposal have been timeously received. The terms of objection which are relevant planning considerations, can be summarised as follows:-

4.1 Inadequate drainage in respect of the car wash, resulting in water and chemicals pooling at the entrance to the site and causing a danger to pedestrians using the footpath, outflow being directed to a resident's septic tank and inappropriate waste being directed to the public sewer.

Should the application be granted, it is considered that a condition requiring the submission and approval of drainage details relative to the car wash would be appropriate.

4.2 Protective screening should be installed around the car wash to prevent spray damaging trees and plants in garden ground adjacent to the site or reaching the occupier of the adjacent dwelling when walking to and from his house.

This particular type of manual car wash uses a mixture of water and chemicals at a relatively high pressure (which can also result in spray forming). It is therefore considered that as the car wash lies immediately adjacent to the boundary wall and hedge of the property to the rear, damage could be caused to the hedge and other plants belong to that property and spray could affect the occupier of the property. Should the application be granted, a condition could be included on the planning permission requiring the applicant to provide details of a splash barrier and thereafter to install the barrier upon approval of the details.

4.3 Odour nuisance from the fish and chip van.

Should the application be granted, a condition could be included on the planning permission limiting the hours of operation and requiring the applicant to submit details of an odour extraction and filtration system to be approved by the Planning Authority. In these circumstance it is considered that the operation of the fish and chip van would not impact unduly on the amenity of adjacent properties.

4.4 Litter from the fish and chip van.

There is no evidence on site that the fish and chip van has given rise to a significant increase in litter in the vicinity.

4.5 The view that extracted fumes from the fish and chip van will coat adjacent properties in a film of grease.

This has not been substantiated by the Environmental Health Section and as such, a refusal of the application cannot be justified on this ground. Nevertheless, as noted above, a condition could be included on the planning permission should consent be granted, requiring the applicant to submit details of an odour extraction and filtration system.

4.6 The view that localised traffic problems are caused as a result of vehicles stopping off at the chip van and parking on the A713 as insufficient parking is available.

The Roads and Transportation Division has not substantiated the view that localised traffic congestion occurs as a result of the siting of the fish and chip van. As noted above, however, the Division has recommended that a condition be included on the

planning permission, should the application be granted in respect of the provision of car parking spaces.

4.7 The view that the boundary wall is unsafe and represents a danger to users of the shop and chip van.

Building Control have visited the premises. A brick wall to the rear of the forecourt is sound; however the low wall to the front, adjacent to the public road, is of more concern and Building Control have been advised that it is to be removed.

4.8 The view that the fish and chip van represents a danger to road users as there are no overhead lights in the forecourt.

This view has not been substantiated by the Roads and Transportation Division and, as such, a refusal of the application cannot be justified on this ground.

4.9 The view that signage, used in association with the fish and chip van, is located on the pavement and forces pedestrians to walk on the road.

Whilst this objection has not been substantiated by the Roads and Transportation Division, a note could be attached to the planning permission should the application be granted, advising the applicant that the consent does not relate to any advertisements which may be required in association with the chip van or car wash/vacuum facility. Where such advertisements require consent, the necessary application can be considered taking account of pedestrian safety amongst other matters.

4.10 The letter of support says that the proposed siting of the fish and chip van is more suitable and safer than the present situation and it also attests to the character of the applicants.

Whilst the latter part of these comments is not a relevant planning consideration, the comments regarding safety are not inconsistent with those of the Roads and Transportation Division.

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 Policy 13 which states that development which is detrimental to the amenity of nearby dwellinghouses will not be permitted.

It is not considered that this proposal would be detrimental to the amenity of the adjacent dwellinghouses to an extent that would justify a refusal of the application, particularly as conditions can be imposed on the planning permission to regulate the hours of operation of the fish and chip van, odour emissions and spray from the car wash.

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 (1999) and the objections assessed 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 (EALP) should be considered as a prime material consideration.

6.3 Policy RTC13 of the East Ayrshire Local Plan states that:-

The siting of static or mobile snack bars, open air stalls or other street trading units within all settlement boundaries as defined on the Local Plan maps will be assessed against the undernoted criteria:-

- (i) impact on the vitality and viability of existing retail and catering provision within the settlements concerned;

It is not considered that this proposal would impact adversely on the vitality of the existing settlement criteria given the scale of the proposal and the distance from the settlement centre.

- (ii) impact on the visual quality and amenity of the environment and adjacent properties by reason of noise, litter, odour or any other disturbance;

As noted above, it is not considered that the development would have a detrimental effect on the surrounding properties to an extent that would justify a refusal of the application.

- (iii) servicing and car parking provisions;

No adverse consultation replies have been received from the West of Scotland Water Authority or Scottish Environment Protection

Agency. The Roads and Transportation Division has no objection to the proposal subject to the inclusion of certain conditions on the planning permission, one of which relates to the provision of car parking spaces.

- (iv) site specific locational need, and

It is considered that the development is suitably sited in order to attract passing trade.

- (v) compatibility with surrounding land uses

The development is sited between a public house/restaurant and residential care home, both of which prepare food on a commercial basis. It is not considered that any additional odour (which can be controlled by including appropriate conditions on the planning permission should the application be granted) would therefore justify a refusal of the application.

6.4 The siting of a fish and chip van and car wash/car vac at this location would not have a detrimental effect on the amenity of surrounding properties to an extent that would justify a refusal of the application. Nevertheless, the proposal, particularly with respect to the siting of a fish and chip van, is not considered to be a suitable form of permanent development. It is therefore considered that that planning permission, if granted, should be time limited to two years.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in determining this application. Legal implications may arise through the implementation of enforcement action, should the Committee be minded to refuse this retrospective application.

8. CONCLUSIONS

8.1 As indicated in paragraph 5.1 above, 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 indicated at paragraph 6.2 above, there are material considerations relevant to this application. However, these are also generally supportive of the application.

8.2 Whilst a development of this nature may give rise to a possible odour nuisance, it is considered that, should the application be granted, appropriate conditions can be included on the planning permission which would reduce any negative impact on the surrounding premises as well as limiting the

consent to two years. Likewise, spray from the car wash can be contained by requiring the applicant to provide a splash barrier as a condition of the planning permission. It is therefore considered that the proposal would not give rise to a significant reduction in the amenity of surrounding properties. It is in accordance with both Policy 13 of the Adopted Dalmellington/Patna/Dalrymple Local Plan and Policy RTC13 of the East Ayrshire Local Plan.

8.3 The other points of objection raised have either not been substantiated in the consultation process or are not considered to be material planning considerations.

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
19 January 2001
(DS/SMB)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans
2. Statutory notices and certificates
3. Consultation responses
4. Letters of representation
5. Adopted Dalrymple/Patna/Dalmellington Local Plan
6. East Ayrshire Local Plan (Finalised Version)
7. Adopted Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers should contact Derek Scott on 01563 555485.

Implementation Officer : Dave Morris

Application no: 00/0819/FL

Location	Former Garage, Ayr Road PATNA KA6 7LP
Nature of Proposal:	Proposed siting of a fish and chip van and installation of a manual car wash/car vac (restrospective)
Name and Address of Applicant:	Mr & Mrs McWilliams Jellieston Cottage, Ayr Road PATNA KA6 7LA
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. This permission shall be valid for a limited period of two years, after which time, unless further permission is granted, the fish and chip van, car wash and car vac shall be removed from the site.

REASON - The proposal, in its entirety, is not considered to be a suitable form of permanent development.

2. There shall be no obstruction to visibility over 1 metre in height within a visibility splay of 2.5 metres by 90 metres at both accesses to the site from the A713.

REASON - In the interests of road safety.

3. Within one month from the date of this permission, four car parking spaces shall be provided within the site.

REASON - In the interests of road safety.

4. No surface water or loose materials shall discharge from the site onto the public road.

REASON - In the interests of road safety.

5. Within one month of the date of this consent, details of how water and chemicals issued from the car wash are to be drained from the site shall be submitted to for approval by the Planning Authority. Such drainage arrangements shall thereafter be implemented within one month of the approval of the Planning Authority being given.

REASON - To ensure that the site is properly drained.

6. Within one month from the date of this permission, details of a splash barrier/protective screening, designed to protect adjacent premises from spray from the car wash, shall be submitted to for approval by the Planning Authority. Within one month of the

approval of those details, the splash barrier/protective screening shall be erected in accordance with the details thereby approved.

REASON - In the interests of residential amenity.

7. The fish and chip van shall not operate outwith the hours of 0830 hours to 2200 hours, seven days a week.

REASON - In the interests of residential amenity.

8. Within one month from the date of this permission, details of the means of odour extraction and filtration system in respect of the fish and chip van shall be submitted to for approval by the Planning Authority. Within one month from the approval of those details, the odour extraction and filtration system shall be installed and operational in accordance with the approved details.

REASON - In the interests of residential amenity.

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

REASON - In the interests of road safety.

NOTES.

1. The applicant should be aware that this permission does not grant any advertisement consent which may be required for the siting of advertisements in association with the development.

2. The applicant shall contact the West of Scotland Water Authority, 35 Glenburn Road, Prestwick KA9 2NS, within one week from the date of this approval, with regard to water supply.

3. The applicant shall contact the Scottish Environment Protection Agency, 2 Alloway Place, Ayr KA7 2AA, within one week from the date of this approval, with regard to drainage arrangements relative to the car wash.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA