

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 22 JUNE 2001

**01/0305/FL : PROPOSED CHANGE OF USE FROM RETAIL SHOP TO HOT
FOOD TAKEAWAY AT 2- 4 WELL ROAD, AUCHINLECK**

APPLICATION BY MR JAMES ARSHAD

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for a change of use of the vacant shop units to form a hot food takeaway. No external alterations are proposed to the building, other than the erection of signage and the installation of an odour extraction and filtration system.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

31 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 is also supportive of the proposed development.

3.2 No adverse consultation replies have been received in respect of this application. The issue of the location and details of the odour extraction and filtration system can be addressed through the imposition of an appropriate condition on the planning permission.

3.3 The points of objection relating to the impact the proposal would have on other hot-food shops in terms of competition and to anti-social behaviour are not specifically material planning considerations. Any increase in noise and litter disturbance can be addressed through the imposition of appropriate conditions on the planning permission.

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 JAMES ARSHAD

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 two vacant single storey retail units which form part of a row of six shops at the eastern end of Well Road, Auchinleck. Immediately adjacent to the eastern boundary of the site lies a local area supermarket. Residential properties lie opposite the site, on the northern side of Well Road. To the rear lies a car park and an electrical sub-station. An area of public open space, known as Back Rogerton lies to the west of the application site, beyond the other shop units. Another hot food takeaway presently exists within the row of shop units, in proximity to the site.

2.2 **Proposed Development:** Full planning permission is sought for a change of use of the vacant shop units to form a hot food takeaway. No external alterations are proposed to the building, other than the erection of signage and the installation of an odour extraction and filtration system.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objection to the proposal.

Noted

3.2 East Ayrshire Council Environmental Health and Waste Management Division has stated details should be obtained from the applicant in respect of odour extraction and filtration system and refuse storage.

Should the application be approved, appropriate conditions can be included on the planning permission in respect of the above.

3.3 The West of Scotland Water Authority has no objection to the proposal, provided drainage arrangements are to its satisfaction.

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

3.4 Auchinleck Community Council has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS

4.1 Twenty-seven letters of objection have been received from residents and takeaway owners in various parts of Auchinleck. The terms of objection can be summarised as follows: -

4.2 Sufficient hot-food takeaway outlets already exist in Auchinleck. Should this additional takeaway be approved, it would have an adverse impact on the business of the existing takeaways.

It is not the function of the planning system to preserve existing individual commercial interests or to inhibit competition between retailers. Objection to the proposed development on grounds of competition is therefore not material to the consideration of the application.

4.3 The takeaway would result in an increase in disturbance as a result of anti-social behaviour in the early hours of the morning.

It is not the function of the planning authority to control anti-social behaviour. Nevertheless, it is accepted that some disturbance may occur from the closing car doors or from people walking to and from the premises. It should be noted that the existing hot food shop, adjacent to the application site, opens until 11pm. It is therefore considered that, should the application be approved, a condition could be included on the planning permission limiting the hours of opening to coincide with the existing business. This would minimise the impact of any additional disturbance on the occupiers of nearby dwellinghouses.

4.4 The proposal would result in traffic and parking problems within the vicinity.

This objection has not been substantiated by the Roads and Transportation Division.

4.5 It is a common practice for youths to set refuse bins alight in the area.

As noted above, anti-social behaviour is not a planning consideration.

4.6 The proposal would give rise to an increase in litter.

Should the application be approved, a condition requiring the applicant to provide suitable litter receptacles for the use of the public, can be included on the planning permission.

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 Cumnock and Auchinleck Local Plan (1992). The Adopted Local 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 falls to be determined with regard to Policy 15 of the Adopted Local Plan which seeks to preserve the character of the residential areas.

The application site lies within an existing commercial area, albeit adjacent to residential properties and the development could be controlled through the imposition of certain conditions. It is therefore considered that, should the application be approved, the impact of the use of the site as a hot food takeaway would be not sufficiently worse than the previous use as a general store, to an extent that would justify a refusal of the application.

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 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 Policy RTC15 of the EALP states that: -

Development proposals for public houses and hot food takeaways will be considered acceptable in other locations where the proposals: -

- (i) *meet with the Council's design and layout policies;*

The proposal is considered to be acceptable in this regard.

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

The Roads and Transportation Division has no objection to the proposal

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

As noted above, the development could be controlled through conditions such that the effects of noise, litter and odour will be minimised.

- (iv) *are compatible with surrounding land uses.*

The property is located within a row of shops and adjacent to an existing hot food takeaway.

It is therefore considered that the proposal accords with Policy RTC15 of the EALP.

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 is also supportive of the proposed development.

8.2 No adverse consultation replies have been received in respect of this application. The issue of the location and details of the odour extraction and filtration system can be addressed through the imposition of an appropriate condition on the planning permission.

8.3 The points of objection relating to the impact the proposal would have on other hot-food shops in terms of competition and to anti-social behaviour

are not specifically material planning considerations. Any increase in noise and litter disturbance can be addressed through the imposition of appropriate conditions on the planning permission.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

11 June 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 objection.
5. East Ayrshire Local Plan (Finalised Version with Modifications).
6. Adopted Cumnock-Auchinleck Local Plan.
7. Approved Ayrshire Joint Structure Plan.

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

Implementation Officer : Dave Morris

Application no: 01/0305/FL

Location	2-4 Well Road AUCHINLECK KA18 2JY
Nature of Proposal:	Proposed change of use from retail shop to hot food takeaway
Name and Address of Applicant:	Mr James Arshad 15 Henderson Avenue Cambuslang GLASGOW G27 7SA
Name and Address of Agent	C L Farleigh Farleigh Associates 1 Aster Gardens, South Park Village GLASGOW G53 7XG

DPO's Ref: [Derek Scott]
PPO's Ref; []

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

1. Before the premises are open to the public, details of the odour extraction and filtration system shall be submitted to and approved by the Planning Authority and shall be installed in working order. The system shall at all times thereafter be effectively maintained.

REASON – To ensure the occupants of adjacent premises are not subject to excessive odour intrusion.

2. Before the premises are opened to the public, details of a lockable refuse storage area shall be submitted to and approved by the Planning Authority. At all times thereafter, the refuse storage area shall be maintained effectively in accordance with the details as approved.

REASON – In the interests of environmental amenity.

3. Before the premises are open to the public, details of the design and location of the shop front signage shall be submitted to and approved by the Planning Authority.

REASON – In the interest of visual amenity.

4. The use hereby approved shall not be carried out before 1700 hours and after 2300 hours.

REASON – To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interests of residential amenity.

5. The applicant shall provide suitable litter receptacles both within and outwith the premises for use by visiting members of the public, details of which shall be submitted to and agreed by the Planning Authority prior to the commencement of the use. The external receptacles shall be in place prior too the commencement of business and removed and emptied after each day's trading to the satisfaction of the Planning Authority.

REASON – In the interests of environmental amenity.

NOTE TO APPLICANT: -

1. The applicant is advised to make early contact with the West of Scotland Water Authority, 35 Glenburn Road, Prestwick, with regard to the drainage arrangements and the possible requirements for the provision of grease traps.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
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VIEWING PLEASE CONTACT (01563) 555320.**

AGENDA