

## **EAST AYRSHIRE COUNCIL**

**SPECIAL NORTHERN LOCAL PLANNING COMMITTEE: 15 JUNE 2011**

**11/0242/PPP: MIXED USE DEVELOPMENT INCLUSIVE OF FURTHER  
EDUCATION COLLEGE, RESIDENTIAL, CARE HOME, BUSINESS, SMALL  
SCALE RETAIL, HOTEL, PUBLIC HOUSE, RESTAURANT, CAFE AND  
CRECHE/NURSERY**

**AT: 18 - 20 HILL STREET, KILMARNOCK, KA1 3HY  
BY DIAGEO SCOTLAND LTD**

**Click for Application Details:** <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=11/0242/PPP>

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 This proposal is for planning permission in principle, and therefore no detailed plans indicating layout and design have been provided. These would form part of a further application(s) if planning permission in principle was granted by Members. This current application seeks to establish if the principle for a range of uses is acceptable, comprising:

- Further education college;
- Residential including a care home;
- Business;
- Small scale retail units;
- Hotel, public house and restaurant uses; and
- Crèche/nursery.

1.2 A Masterplan Design Statement has been submitted by the applicants. Whilst this document is also indicative, it provides some illustration of how the applicant foresees the site developing when any further details are submitted and if consent in principle is granted. The Design Statement includes a site analysis of views in and out of the site, the context of the site in relation to the town centre, changes in levels, and connections to external linkages, such as the Sustrans Route to the north, adjacent residential areas, the railway and areas of green space. These matters have all been considered to assess how the proposed uses throughout the site might best relate to the surrounding area.

1.3 The applicant advises that fundamental to the design ethos for the development site is the desire to create a 'sense of place', to ensure the site functions well within itself, as well as interacting with the wider area beyond. In

this respect, the applicant recognises the importance of establishing a balance of infrastructure and public realm works, to encourage developers to invest.

1.4 The basic indicative design envisages a central road through the development site, which would take the form of a landscaped boulevard, allowing movement from both pedestrians and cyclists from the site towards the adjacent Sustrans route. It is anticipated that a new Kilmarnock College will be situated to the south of the boulevard, closest to the town centre to allowing linkages between the town centre through the area. A range of ancillary uses around the proposed college, comprising for example small scale shops, cafes, sports pitch, which would be in place to support college life and provide services to the local area.

1.5 To the north of the central boulevard, there are indicative uses planned comprising an hotel, retail outlets, residential units and a care home. While such uses may be subject to re-configuration within the site, it is however, planned to have active uses co-existing beside residential uses, to create a vibrant and thriving public route through the site. Within the western area of the site close to the Balmoral Road industrial properties, a business area is planned adjacent to the existing business and industrial uses.

1.6 As the application is for planning permission in principle, the applicant has submitted several layout configurations; however all are based around the same themes of, business, care home, residential and, possibly, a hotel for the north of the boulevard. Site areas are indicative, but suggest that for the area of the site to the north of the central boulevard there are three proposed land uses comprising, residential use, business use, and the proposed care home. The proposed college would be the sole land use to the south of the main boulevard. In summary, the uses inter-relate with each other and with the existing surrounding businesses, and there are ample opportunities for linkages and activity from the town centre through the site and beyond, however, as with any application for planning permission in principle, individual designs, densities and layouts will be determined under any subsequent detailed applications submitted.

1.7 As required by the Town and country Planning (Development Management Procedure) (Scotland) Regulations 2008, the applicant carried out pre-application consultation (PAC) over a period of 2 days in February 2011. Members of the applicant's project team were in attendance and visitors were provided with a questionnaire to complete with any comments that they wished to make. Plans of the indicative Masterplan were also displayed. 9 responses were received and the applicant's agent has advised that the responses promoted general support for the proposed college development and were more varied for the other mix of uses. The applicant's agent advised that any comments received regarding the mix of uses could be satisfactorily addressed as part of the application process through the detailed applications for the design and layout of the site.

## **2. RECOMMENDATION**

**2.1 It is recommended Local Planning Committee endorses the view of the Head of Planning and Economic Development that planning application 11/0242/PP be approved subject to the conditions indicated on the attached sheet.**

**2.2 It is recommended that the recommendation of the Local Planning Committee be subsequently referred to the Council for consideration in the determination of this planning application.**

## **3. CONCLUSIONS**

3.1 As indicated in section 5 of the report, the application is considered to be significantly 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 Section 6 of the report, there are material considerations relevant to this application and, in this case, it is considered that they are of sufficient weight to merit approval of the application contrary to the provisions of the recently adopted local plan which safeguards the site for industrial purposes.

3.2 The proposed development comprises a wide mix of uses which include business units but not across the whole site. Whilst the area of the site to accommodate these business units are wholly appropriate to the safeguarding of this site the remaining components of the mixed use development, particularly the proposed residential use, are significantly contrary to these local plan provisions. Notwithstanding this however, noting the specific circumstances of this application where the current occupier is due to cease operations on site, and thereafter, this will result in a vast vacant site at the edge of the town centre, this proposal has been presented as an appropriate and realistic approach for the future use of the land for a mix of uses.

3.3 This would therefore bring the benefit of combining business and industrial units with other compatible uses, such as a new college building to provide a modern educational campus for a quality learning experience. In terms of the proposed business use to the north/west of the site, this is in compliance with local plan policies to safeguard this land for business/industrial. Notwithstanding the significant departure from the business/industrial zoning, the general approach to the redevelopment of this site and the range of proposed non business and industrial uses are thereafter considered to be in accordance with the relevant local plan policies as highlighted above. The redeveloped site will

deliver a range of benefits which, on balance, are considered to outweigh the merits of safeguarding the site solely for business/industrial use.

3.4 There are other material considerations relevant to the application as indicated in Section 6 of the report and the consultation responses are supportive of the proposal with appropriate conditions, if consent is granted. The objector's concerns have been considered but do not carry sufficient weight to refuse this application and in this respect, the indicative Masterplan layout illustrates the proposed business use being positioned closest to the existing industrial properties on Balmoral Road which should alleviate the objector's concerns about incompatibility of use. Given the nature and scale of the proposed development, it is noted that there has been no significant third party representations received in respect of this application.

3.5 In terms of overall benefits of this proposal it will also provide community facilities in the form of a replacement Kilmarnock College in a modern learning educational campus within this brownfield area which can be reached by the surrounding areas via sustainable travel and overall, the proposal will bring a wide range of economic and social benefits to the surrounding area, including to the town centre.

3.6 The remaining material considerations of impact upon the amenity of the area, The SPP, the applicant's supporting statement and the planning history do not suggest that this application should be refused and it is therefore considered that there is appropriate justification to warrant an exception to the local plan designation of safeguarding this site for business and industry and that the proposed mix use development is appropriate.

3.7 In principle, the re-development of this large site, following the decommissioning of the bottling plant, scheduled for 2012, signifies a commitment to remediate a site which will be contaminated, and promotes a Masterplan for a range of uses of benefit to the residents of Kilmarnock and the wider community. The wider benefits of a mixed use area, with a broad mix of community and private interests, indicate a progressive move towards inward investment, within a flexible proposal.

**Alan Neish**  
**Head of Planning and Economic Development**

**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 Economic Development**

#### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination an application planning permission in principle which is to be considered firstly by the Local Planning Committee. Under the scheme of delegation the proposed development represents a major application in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 which is significantly contrary to the Development Plan and therefore determination of the application rests with the Council. The Local Planning Committee is required to consider all representations made on the application for planning permission as part of a pre-determination hearing procedure, if required, prior to making a formal recommendation on the application to a subsequent meeting of the Council.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site extends to 9.4 hectares and is situated to the north of Kilmarnock town centre, with the main Kilmarnock rail line on the site's southern boundary, Hill Street on the eastern boundary of the site, and Balmoral Road to the north. To the west of the application site are the existing industrial and storage premises that are accessed from Balmoral Road. Site levels rise along Hill Street leading north. Currently located on site are the Johnnie Walker operational buildings for the bottling plant, comprising a mix of single, two and three storeys, mostly buildings from the 1950's onwards. Vehicular access is currently taken via Hill Street.

2.2. **Proposed Development:** This proposal is for planning permission in principle, and therefore no detailed plans indicating layout and design have been

provided. These would form part of a further application(s) if planning permission in principle was granted by Members. This current application seeks to establish if the principle for a range of uses is acceptable, comprising:

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2.3 A Masterplan Design Statement has been submitted by the applicants. Whilst this document is also indicative, it provides some illustration of how the applicant foresees the site developing when any further details are submitted and if consent in principle is granted. The Design Statement includes a site analysis of views in and out of the site, the context of the site in relation to the town centre, changes in levels, and connections to external linkages, such as the Sustrans Route to the north, adjacent residential areas, the railway and areas of green space. These matters have all been considered to assess how the proposed uses throughout the site might best relate to the surrounding area.

2.4 The applicant advises that fundamental to the design ethos for the development site is the desire to create a 'sense of place', to ensure the site functions well within itself, as well as interacting with the wider area beyond. In this respect, the applicant recognises the importance of establishing a balance of infrastructure and public realm works, to encourage developers to invest.

2.5 The basic indicative design envisages a central road through the development site, which would take the form of a landscaped boulevard, allowing movement from both pedestrians and cyclists from the site towards the adjacent Sustrans route. It is anticipated that a new Kilmarnock College will be situated to the south of the boulevard, closest to the town centre to allowing linkages between the town centre through the area. A range of ancillary uses around the proposed college, comprising for example small scale shops, cafes, sports pitch, which would be in place to support college life and provide services to the local area.

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2.8 As required by the Town and country Planning (Development Management Procedure) (Scotland) Regulations 2008, the applicant carried out pre-application consultation (PAC) over a period of 2 days in February 2011. Members of the applicant's project team were in attendance and visitors were provided with a questionnaire to complete with any comments that they wished to make. Plans of the indicative Masterplan were also displayed. 9 responses were received and the applicant's agent has advised that the responses promoted general support for the proposed college development and were more varied for the other mix of uses. The applicant's agent advised that any comments received regarding the mix of uses could be satisfactorily addressed as part of the application process through the detailed applications for the design and layout of the site.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council Roads and Transportation Service indicates that the Transport Assessment (TA) as submitted is based upon Option 2 contained within the submitted Masterplan for the site. The TA represents an initial high-level transport assessment for the proposed site uses. The TA demonstrates that the site is situated in a location able to take advantage of excellent existing public transport provision due to its proximity to Kilmarnock bus and railway stations, and is also connected to the Kilmarnock cycleway network. The mixed use nature of the development will also increase the likelihood of shared trips between the individual land uses, reducing the need to travel.

The TA, as submitted, concludes that the development proposal is acceptable in broad transport terms. However, this Service considers that a more detailed assessment will be required when the full details of the development mix are known and which will require further traffic analysis, including sensitivity testing of key junctions in the surrounding road network, to determine possible impacts and any mitigating measures that may be required. This assessment will also require a more detailed analysis of parking requirements for the proposed development.

In light of the foregoing, the Service has no objection in principle to the proposed development; however, it is recommended that a condition be attached to any grant of planning permission in principle requiring a more detailed TA assessment prior to submission of any 'detailed' planning application(s). The following condition is recommended: -

*“Prior to the submission of any further applications related to the consent hereby granted, the further written approval of the Planning Authority shall be obtained for a full detailed Transport Assessment covering accessibility, traffic generation, junction analysis, principles and sustainable transport options, parking provision, and details of the access arrangements for all modes of transportation”.*

***A condition, in the terms above, can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Service***

3.2 East Ayrshire Council Roads and Transportation Service (Flooding Section) has no objections but has noted any full application would require the production of a Drainage Impact Assessment (DIA) and Flood Risk Assessment (FRA), which would identify all possible sources of flooding and list the actions required to alleviate any such problems identified, and detail how the surface waters for the site are to be dealt with. A Sustainable Urban Drainage Scheme would also be required for the site.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Service (Flooding Section).***

3.3 East Ayrshire Council Environmental Health (Contaminated Land) and Petroleum Officer (Trading Standards) have no objections in principle but consider the site will have contamination and storage tanks for various combustibles on site from the current use, and from previous uses as a colliery, gas works, mill and railway sidings. Any works required would therefore have to be done when the site is fully decommissioned.

***Conditions and advisory notes can be attached to any consent granted for the proposed development to meet the stated requirements.***

3.4 East Ayrshire Council Environmental Health Service has no objections, subject to conditions on noise, dust suppression and waste.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Service.***

3.5 East Ayrshire Council (Outdoor Amenities) has no objections, noting that the scale of landscaping proposed, whilst indicative, is encouraging.

***Outdoor Services would be consulted on any further application(s) seeking consent for the site layout and design, should Members choose to grant planning permission in principle.***

3.6 East Ayrshire Access Panel has no objections in principle to the proposed uses detailed for the site but do have concerns about how the differences in level will be accommodated. The artist's impression of the access to the college is of concern due to the amount of steps. The Panel would have welcomed the chance to be involved in the public consultation days, however they would still welcome the chance to discuss the proposals at the earliest opportunity so that the eventual design meets the principles of inclusive design.

***The application is in principle only and the artist's impressions, as well as any layouts, are indicative at this stage. An advisory note can recommend early discussion with the Access Panel. This Service would also consult with the Access Panel upon receipt of any further application(s) for the design and layout of the site..***

3.7 Strathclyde Passenger Transport has no objections and welcomes the proposed redevelopment of this site and the mix of uses proposed. As noted within the Transport Assessment, the site is well served in relation to pedestrian, cyclist and public transport facilities. Pedestrian linkages between the site and the rail station and the bus stops on Hill Street should be clearly defined, sign posted and well lit as well as accessible by all, and avoiding stepped access where possible. The Transport Assessment also considers on how best to influence travel behaviour towards sustainable travel, which is also welcomed. It is SPT's view that due to the nature of the development, covering a variety of land uses and potentially a number of different occupiers, that the appointment of a Travel Plan co-ordinator would be beneficial.

Within the proposed College site, the provision of public transport information and sustainable travel information will help encourage sustainable access by users. The opportunity to provide a Travel Point in the College should be considered and discussed with SPT.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of Strathclyde Passenger Transport.***

3.8 Sport Scotland has no objections to the proposal. Originally, the 'future development area' outlined in the Masterplan showed the removal of an existing pitch, however it was clarified to Sport Scotland that this was not part of the

current application site. Sport Scotland, did however, welcome the proposed new full sized all weather pitch within the proposed college and would be able to advise further in terms of pitch provision on any detailed application if this was submitted.

3.9 The Scottish Environment Protection Agency advise that they would object in principle to the proposal unless certain conditions are attached to any consent covering disposal of foul water to the public sewer, and for surface water drainage to be in accordance with the recognised industry standard.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of SEPA.***

3.10 Scottish Power Networks and Scotland Gas Networks have no objections.

3.11 Scottish Water has no objections to the proposal.

3.12 East Ayrshire Council's Legal Services have no comments to make.

3.13 Network Rail has no objections regarding the development and have general comments in terms of how the development might affect their property with regard to drainage, boundary treatments, lighting, landscaping etc.

***An advisory note to recommend the applicant make early contact with Network Rail can be attached to any consent.***

#### **4. REPRESENTATIONS**

4.1 One letter of objection has been received from an adjacent business. This raises the following concerns:

4.2 The area is currently industrial in nature and should the proposal go ahead, there is a concern that existing industrial uses will be forced out of the area.

***The objector's concerns relating to the loss of industrial land are discussed in more detail at Section 5 of this report. This application has however been submitted due to the operator of the site ceasing operations in the near future. The Masterplan submitted by the applicant, whilst indicative, illustrates that it is proposed to site business units next to the established industrial and business operators at Balmoral Road, rather than the more sensitive residential and care home uses. Such a proposal would be less intrusive to those existing businesses being able to continue their***

**operations. If permission in principle is approved, future application(s) would be submitted to agree the final site layout.**

**In this regard, it is considered that a Noise Impact Assessment should be requested as part of the detailed consideration of the land uses promoted by the proposed development in terms of their relationship to existing industrial and business operations at Balmoral Road. This can be secured by the imposition of a condition in any consent granted for the proposed development.**

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 The Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Local Plan (2003) (EALP) comprise the development plan.

### Ayrshire Joint Structure Plan

5.2 The proposal requires to be assessed against policies STRAT2, ECON5, ENV4 and COMM1 of the Ayrshire Joint Structure Plan.

5.3 Policy STRAT2, states that the Ayrshire Councils will seek to increase the attraction of Ayrshire as a place to live, work, visit and invest. This will be done in a number of ways including providing for integrated and complementary development within the Core Investment Area and promoting the areas as the primary focus for all major development.

**As a major town within the Core Investment Area, Kilmarnock is an appropriate location for a large scale mixed use development such as is being proposed for the Hill Street site and the application therefore complies with STRAT2.**

5.4 Policy ECON5 of the Structure Plan gives support to the development of the knowledge economy and specifically supports proposals which expand or consolidate existing higher educational facilities. A key element of the proposal is the development of a new Kilmarnock College.

**This new site for a relocated Kilmarnock College represents a more accessible and appropriate location for the college and that this will considerably enhance the development of Kilmarnock's knowledge economy in compliance with Policy ECON5.**

5.5 Policy COMM1 of the Structure Plan gives priority to proposals that regenerate existing communities including Kilmarnock town centre.

***While the current application site is outwith Kilmarnock town centre, its proximity to the town centre means that the redevelopment of this site will have a major positive impact on the regeneration of the town centre itself. It is considered that the proposed development is supportive of the regeneration of both the site itself and the wider town centre.***

5.6 Policy ENV4 promotes the establishment of a green network and indicates that within the Investment Corridors, opportunities to link green spaces within and outside communities, shall be an integral consideration in the assessment of all local development proposals. The importance of a green network has been further heightened by the inclusion in NPF2 of the Central Scotland Green Network, as one of fourteen national priorities.

***Given the scale and central location of the Hill Street site, the provision of green space on the site itself and the linkages into existing areas of green space should be a key consideration in finalising a detailed masterplan for the site, secured by the imposition of appropriate conditions in any consent granted for the proposed development.***

#### East Ayrshire Local Plan

5.7 In terms of the Adopted East Ayrshire Local Plan, Policy SD2 encourages new development that will make the area more attractive to inward investment and encourages development for improved facilities that will help better the quality of life for residents.

***The redevelopment of the Hill Street site comprises major development for Kilmarnock and East Ayrshire, which will both act as a driver for inward investment and provide new improved facilities for local residents, in the form of the college and its associated services.***

5.8 Through Policy SD6, the Council encourages the integration of complimentary and compatible land uses for residential, work and recreational purposes and particularly supports development at existing public transport route interchanges.

***As the current proposal combines a mix of integrated uses and at its southern boundary is adjacent to Kilmarnock Railway Station, the proposal meets the aims of this strategic policy.***

5.9 Policy SD7 states that the Council will positively encourage the re-use and redevelopment of brownfield land, both in the areas settlements and in countryside areas, in preference to the development of greenfield sites.

***Following the forthcoming closure of the existing bottling plant, the current site will form an extensive brownfield site at a central location in Kilmarnock. The re-use of this site is therefore a key priority for the town and is fully supported though this local plan policy.***

5.10 Within KILMARNOCK2 of the Local Plan, the current site is safeguarded for continuing industrial use and as a preferred area to which new industrial and business development will be directed (Local Plan site reference 322B).

***Whilst the current application indicates that a proportion of the site will be utilised for business use at the northern position of the site at Balmoral Road, the larger portion of it will not be utilised for business/industry. In this regard, the proposed development represents a significant departure from the development plan as the use of the site for non Class 4 uses is contrary to the site designation and Policy IND3.***

***However it should be noted that due to timing issues with the local plan adoption process, the site designation in the Local Plan could not take account of the decision to close the existing bottling plant. Given the scale of the site and its importance to the town centre as well as the wider Kilmarnock area, it is considered that a mixed use scheme, brought forward as part of an integrated masterplan, represents the most appropriate use of this large scale 'redevelopment' site and comprises the most flexible and realistic option for securing the re-use of the site in a manner which would benefit Kilmarnock and East Ayrshire.***

***The element of business use within the proposed development is clearly in accordance with the provisions of policy IND3, which indicates that proposals for Classes 4, 5 and 6 use should be directed towards business and industry development opportunity sites and sites safeguarded for such purposes on the local plan maps.***

5.11 Policy CS1 supports the development of new facilities to meet the changing needs and demands for all community, educational, sporting, leisure, cultural and other facilities serving local communities.

***The principle of a new, purpose built college at an accessible location close to the town centre and the public transport network is***

***in accordance with this policy. Similarly, the inclusion of a crèche / nursery within the scheme is considered to be appropriate in terms of CS1.***

5.12 Through Policy RES3, the Council will encourage the sympathetic residential development of gap, infill or other redevelopment sites not specifically safeguarded for particular development purposes on the Local Plan maps, when 4 stated criteria are met.

***As already indicated, the site is safeguarded for business use, however given the extensive size of the site that will become vacant following closure of the existing works, it is considered that a mixed use development is the most appropriate use for the site to provide a flexible and realistic future for the site to benefit the local community and East Ayrshire as a whole. Residential use, as indicated in the Masterplan, is therefore considered to be an acceptable element of the redevelopment scheme.***

5.13 Policies RES23 and RES26 require public and private open space to be included as an essential element of residential developments.

***Whilst the Design Statement accompanying the application shows an indicative amount of open space, it is not possible at this stage to say if this meets the requirements of the Local Plan. The overall provision and layout of the residential elements (including private and public open space) can be assessed in a future detailed application as the current application is only considering the principle of the uses.***

5.14 Policy RES29 requires a developer contribution for developments of 4 or more residential units to offset the additional demands placed on community facilities and infrastructure. The Supplementary Planning Guidance on Developer Contributions that has been prepared by the Council states that a Section 75 agreement should be attached to applications for Planning Permission in Principle to establish the principle of developer contributions being made in the future.

***This is a mixed use development and the residential element (albeit a small part of the overall plan) would normally attract a Developer Contribution. Notwithstanding that the applicant has gifted part of the site for the location of a new Kilmarnock College, the Council, through the Make It Kilmarnock Board, are pursuing further financial contributions from the applicant.***

5.15 Policy RES30 supports the development of community care housing on sites that are in close proximity to a post office or a range of shops and located

on a public transport route, subject to; (i) impact on surrounding environment and adjacent uses; (ii) transportation and infrastructure implications and; (iii) loss of maintained open space.

***The development proposal includes a proposed care home and proposed site is considered generally suitable in terms of the policy requirement. However, this would largely depend on the detailed layout of the site. It would need to be ensured that the proposed home was appropriately and sensitively sited in relation to the other uses proposed for the site, so as to safeguard the amenity of residents of the home. If Members choose to grant consent for the principle of development, this matter would be addressed in a future application(s) to discharge the conditions including finalising the layout and design of any care home.***

5.16 Through Policy TOUR1, the Council will support and encourage the development of appropriate and sustainable tourism with East Ayrshire. Specifically in terms of tourist accommodation, TOUR 5 gives support to the development of new hotel accommodation within the area settlements, subject to there being no adverse effects on the character, amenity and appearance of the areas within which they are proposed.

***It is considered that the inclusion of an hotel within the proposed mixed use development is supported by the relevant local plan policies. Given the lack of hotel accommodation in and around Kilmarnock town centre, the development of a hotel on this site will support the local plan objective of maximising the role that tourism can play in the regeneration of the local economy, as well as helping to meet the aims of the Council's wider tourism strategy.***

5.17 Policy RTC1 directs Class 1 retail and Class 3 food and drink proposals in the first instance to town centres. When these cannot be located in the town centre, applicants are asked to look at edge of centre, followed by commercial centres and finally to out of centre sites.

***Whilst these uses should be subject to sequential testing, given that they form a relatively small element of a far wider scheme and can be considered ancillary/complementary to the main uses on the site, their inclusion at this edge of centre site is considered to be appropriate in this instance.***

5.18 Policy RTC15 indicates that outwith identified town centres, public houses will be acceptable when four stated criteria are met. In this respect the proposed use should meet with the Council's design and layout policies, be to the satisfaction of the council as Roads Authority, not have a detrimental effect on

the amenity of adjacent properties by reason of noise, litter, odour or other disturbance and are compatible with surrounding land uses.

***Any proposed public house will form a small part of the much larger development at this site and is generally compatible or complementary to the other proposed uses. Whilst the applicant has not strictly speaking undertaken the required sequential test, it is considered that the proposal to incorporate a public house at this location broadly meets the provisions with Policy RTC15. When a final Masterplan is agreed however, if Members choose to grant consent, it would be appropriate to ensure that the site layout clearly separates the public house from the residential units and in particular the care home, to as not to impact upon the amenity of residents.***

5.19 In terms of townscape and design, Policies ENV9, ENV10 and ENV11 encourage developers to utilise the highest standards of design in their proposals and to ensure developments are accessible to all, sustainable, appropriately landscaped and incorporate community and traffic safety measures. Policy ENV12 encourages developers to incorporate elements of public art into their proposals, especially with regards to proposals within central areas of settlements.

***Given the importance of the Hill Street site to Kilmarnock and its highly visible location in respect of the railway station, it should be ensured that the design of spaces and buildings within the site are of the highest quality in any subsequent detailed applications. Whilst this level of detail cannot be expected at the current in-principle stage, given the size and the profile of this site, elements of public art should be incorporated into the detailed design of the site. A condition regarding the provision of public art can be attached to any consent for the proposed development.***

5.20 In terms of Masterplanning and Policy RES27, the proposal accords with the supplementary guidance contained in the EALP. It is however noted that the links through the scheme to the south are therefore particularly crucial, both in terms of pedestrian and vehicular links, and is an element that could be strengthened in any future detailed applications. In addition, consideration should be given to ensuring the best possible links between the site and the town centre, so as to ensure the development of the site has spin off benefits for the town centre itself by encouraging footfall from the site to the town centre. This should focus on pedestrian, vehicular and visual linkages, as well as links that can be achieved as part of a green network between the site and existing areas of green space.

***Should Members choose to grant consent, the provision of linkages can be addressed by condition to ensure that linkages between the site and with the town centre are delivered.***

***In conclusion, the application site is safeguarded entirely for business and industrial use in the Adopted East Ayrshire Local Plan. Therefore this application for its redevelopment for non-business and industrial uses is significantly contrary to the aforementioned local plan provisions.***

***Noting the specific circumstances of this application where the current occupier is due to cease operations on site, and thereafter, this will result in a vast vacant site at the edge of the town centre, this proposal has been presented as an appropriate and realistic approach for the future use of the land for a mix of uses. This would therefore bring the benefit of combining business and industrial units with other compatible uses, such as a new college building to provide a modern educational campus for a quality learning experience.***

***In terms of the proposed business use to the north/west of the site, this is in compliance with local plan policies to safeguard this land for business/industrial. Notwithstanding the significant departure from the business/industrial zoning, the general approach to the redevelopment of this site and the range of proposed non business and industrial uses are thereafter considered to be in accordance with the relevant local plan policies as highlighted above. The redeveloped site will deliver a range of benefits which, on balance, are considered to outweigh the merits of safeguarding the site solely for business/industrial use.***

***Nonetheless the proposed development represents a significant departure from the development plan.***

## **ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of this application are the consultation responses, the representations received and the planning history of the site.

### **Consultation Responses**

6.2 The consultation responses have been addressed in Section 3 of the report and are not considered to raise any issues that would warrant the refusal of this application. Issues raised by statutory and non-statutory consultees can be addressed by the impositions of appropriate conditions in any consent granted from the proposed development.

## Representations

6.3 In terms of the objection that has been received, it is noted that one objector raised concerns about the nature of uses that are proposed on the site in relation to how this might impact in existing industrial uses.

***The points of objection have been detailed and responded to in Section 4 of this report. The indicative Masterplan shows that Business and Industry uses would be located adjacent to the existing industrial uses on Balmoral Road, rather than the more sensitive uses such as residential properties or the proposed care home, and these uses should be able to co-exist in harmony with the existing operators at Balmoral Road. This matter would also be the subject of further discussion at the detailed application stage if Members choose to grant consent.***

## Scottish Planning Policy

6.4 The SPP is the over-arching national guidance on planning topics, and is a material consideration in the assessment of planning applications. Through the promotion of efficient use of land and buildings within existing settlements, SPP aims to encourage the use of brownfield sites rather than greenfield sites, that are well connected to existing services and infrastructure. SPP also promotes sustainable travel patterns, and looks to avoid the need to reduce the reliance on private transport. The site, being situated in close proximity to the town centre, and being well served by a range of transport options, is ideally placed for a mixed use development that will serve the population of Kilmarnock. Additionally, proposals supporting development which provide new employment opportunities and enhance local competitiveness, promoting the integration of employment generation opportunities with supporting infrastructure and housing development, are all key to how the planning system can support economic development.

## Impact on Amenity

6.5 The proposal will not affect surrounding residential amenity to any degree over and above that of the current use of the site; however, there may be an increase of traffic at different periods compared with what is already experienced on site. The submission of a full Transport Assessment is recommended as a condition of any consent to ensure that any effects of different travel patterns are managed within the existing road network, or are mitigated by the measures agreed upon in the Green Travel Plan.

## Supporting Statement by the Applicant

6.6 The applicant has submitted a planning statement in support of the proposal, which notes the proposal complies with Scottish Planning Policy (SPP),

and outlines both the environmental and social benefits that will come from the remediation of this large, contaminated site. The statement notes that this is a unique opportunity to promote the regeneration and redevelopment of the site in a way that is complementary to the site's proximity to the town centre. In particular, the Kilmarnock College Campus move to Hill Street will significantly benefit the wider community, and as a whole, the proposal brings about the opportunity for well-designed areas of public realm, and a mix of public and private buildings.

### Planning History

6.7 The site has been subject to a range of small scale ancillary applications for consent for works or structures in the overall site in connection with the existing long-standing use on this site as a bottling plant; however there is nothing outstanding that would have any bearing on the determination of the current application.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council in the determination of the planning application.

7.2 In terms of legal implications, there is no requirement to refer the application to Scottish Government, under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2009, if Members choose to grant consent.

## **8. CONCLUSIONS**

8.1 As indicated in section 5 of the report, the application is considered to be significantly 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 Section 6 of the report, there are material considerations relevant to this application and, in this case, it is considered that they are of sufficient weight to merit approval of the application contrary to the provisions of the recently adopted local plan which safeguards the site for industrial purposes.

8.2 The proposed development comprises a wide mix of uses which include business units but not across the whole site. Whilst the area of the site to accommodate these business units are wholly appropriate to the safeguarding of this site the remaining components of the mixed use development, particularly the proposed residential use, are significantly contrary to these local plan

provisions. Notwithstanding this however, noting the specific circumstances of this application where the current occupier is due to cease operations on site, and thereafter, this will result in a vast vacant site at the edge of the town centre, this proposal has been presented as an appropriate and realistic approach for the future use of the land for a mix of uses.

8.3 This would therefore bring the benefit of combining business and industrial units with other compatible uses, such as a new college building to provide a modern educational campus for a quality learning experience. In terms of the proposed business use to the north/west of the site, this is in compliance with local plan policies to safeguard this land for business/industrial. Notwithstanding the significant departure from the business/industrial zoning, the general approach to the redevelopment of this site and the range of proposed non business and industrial uses are thereafter considered to be in accordance with the relevant local plan policies as highlighted above. The redeveloped site will deliver a range of benefits which, on balance, are considered to outweigh the merits of safeguarding the site solely for business/industrial use.

8.4 There are other material considerations relevant to the application as indicated in Section 6 of the report and the consultation responses are supportive of the proposal with appropriate conditions, if consent is granted. The objector's concerns have been considered but do not carry sufficient weight to refuse this application and in this respect, the indicative Masterplan layout illustrates the proposed business use being positioned closest to the existing industrial properties on Balmoral Road which should alleviate the objector's concerns about incompatibility of use. Given the nature and scale of the proposed development, it is noted that there has been no significant third party representations received in respect of this application.

8.5 In terms of overall benefits of this proposal it will also provide community facilities in the form of a replacement Kilmarnock College in a modern learning educational campus within this brownfield area which can be reached by the surrounding areas via sustainable travel and overall, the proposal will bring a wide range of economic and social benefits to the surrounding area, including to the town centre.

8.6 The remaining material considerations of impact upon the amenity of the area, The SPP, the applicant's supporting statement and the planning history do not suggest that this application should be refused and it is therefore considered that there is appropriate justification to warrant an exception to the local plan designation of safeguarding this site for business and industry and that the proposed mix use development is appropriate.

8.7 In principle, the re-development of this large site, following the decommissioning of the bottling plant, scheduled for 2012, signifies a commitment to remediate a site which will be contaminated, and promotes a

Masterplan for a range of uses of benefit to the residents of Kilmarnock and the wider community. The wider benefits of a mixed use area, with a broad mix of community and private interests, indicate a progressive move towards inward investment, within a flexible proposal.

## **9. RECOMMENDATIONS**

**9.1 It is recommended Local Planning Committee endorses the view of the Head of Planning and Economic Development that planning application 11/0242/PP be approved subject to the conditions indicated on the attached sheet.**

**9.2 It is recommended that the recommendation of the Local Planning Committee be subsequently referred to the Council for consideration in the determination of this planning application.**

**Alan Neish  
Head of Planning & Economic Development**

06 June 2011  
MF/FF

FV/HM

### **List of Background Papers**

1. Application form, indicative plans and Masterplan;
2. Statutory Notices and Certificates;
3. Consultation responses
4. Letter of Representation
5. Ayrshire Joint Structure Plan 2007;
6. Adopted East Ayrshire Local Plan 2010;
7. Scottish Planning Policy (SPP)

Anyone wishing to inspect the above papers should contact Marion Fergusson, Senior Planning Officer on 01563 576769.

**Implementation Officer: Hugh Melvin**

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 11/0242/PPP

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Location	18 - 20 Hill Street Kilmarnock East Ayrshire KA1 3HY
Nature of Proposal:	Mixed use development inclusive of further education college, residential, care home, business, small scale retail, hotel, public house, restaurant, cafe and creche/nursery
Name and Address of Applicant:	Diageo Scotland Ltd 18-20 Hill Street Kilmarnock KA3 1HD
Name and Address of Agent	Alex Mitchell 226 West George Street Glasgow G2 2LN

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Officer's Ref: Marion Fergusson  
01563 576769

The above application for Planning Permission in Principle should be Approved subject to the following Conditions:-

1. Notwithstanding the area figures for each of the proposed individual land uses as detailed on the application and the Masterplan for individual uses, these areas are indicative only and do not form part of this consent.

REASON: The details as submitted are for indicative purposes only

2. Prior to the submission of any further applications for the Approval of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP) hereby granted, a finalised Masterplan for the proposed development shall be submitted to, and approved in writing by the Planning Authority, in terms of the proposed uses, the principles of which shall be adhered to in relation to all further applications relating to the development of the site. The finalised Masterplan shall include details of proposed pedestrian, vehicular and visual linkages between Kilmarnock

Town Centre and the application site as well as links that can be achieved as part of a green network between the site and existing areas of green space.

REASON: In order that the Planning Authority considers these aspects in detail, and in order to accord with Policy RES 27 of the 2010 East Ayrshire Local Plan.

3. Prior to the submission of any further applications for the Approval of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP) hereby granted, the further written approval of the Planning Authority, in consultation with the Roads Authority, shall be obtained for a full detailed Transport Impact Assessment covering accessibility, traffic generation, junction analysis, principles and sustainable transport options, parking provision; and details of the access arrangements for all modes of transportation.

REASON: In order that the Planning Authority consider these aspects in detail.

4. Before any development commences on the site, the further written approval of the Planning Authority shall be obtained for the Approval of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP) specified below:

- (i) the overall site layout of the commercial uses and any educational and/or community uses and their curtilages;
- (ii) the size, height, design, floorspace and external appearance of all of the proposed buildings;
- (iii) the means of drainage and sewage disposal including the provision of a SUDS system;
- (iv) the floorspace allocated for each use, or part thereof;
- (v) the boundary walls or features to be erected;
- (vi) existing and proposed site levels and finished floor levels; and
- (vii) the provision for open space and the associated maintenance arrangements for same.
- (viii) The layout of roads and footpaths, and parking provision to be accommodated within the development site.

REASON: The application is for planning permission in principle only at this stage.

5. Notwithstanding the provisions of Condition 4 above, details of public art features to be provided and located within areas of public open space shall be submitted to and approved in writing by the Planning Authority

REASON: To accord with Policy ENV12 of the adopted East Ayrshire Local Plan 2010.

6. Notwithstanding the provisions of Condition 4(viii) above, parking details within the site shall be provided in accordance with East Ayrshire Council Roads Development Guide and shall be submitted to and approved in writing by the Planning Authority as part of the application(s) for the Approval of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP).

REASON: In the interests of public road safety.

7. Foul drainage from the site shall be discharged to the public sewerage system, the applicant shall provide written confirmation of this to the Planning Authority prior to the commencement of works.

REASON: In the interests of the proper drainage and servicing of the site.

8. All surface water discharge to the water environment shall be in accordance with the principles of the SUDS (Sustainable Drainage Systems) Manual (C697) which was published by CIRIA in March 2007.

REASON: In the interests of the proper drainage and servicing of the site.

9. Surface water drainage from the construction phase shall be dealt with by Sustainable Urban Drainage Scheme. Such drainage should be in accordance with C648 and C649, both published by CIRIA. It should be noted that oil interceptors are not considered SUDS in their own right but are beneficial as part of the treatment train.

REASON: In the interests of the proper drainage and servicing of the site.

10. Noisy work on the site during construction should be restricted to 7am to 7pm Monday to Friday, 8am – 1pm on a Saturday, and no noisy work on a Sunday.

REASON: In the interests of surrounding residential amenity.

11. Noise from the works during construction and from those parts of the non-domestic parts of the development as built should at no time cause the underlying background noise level LA90(1hour) to rise by more than 3dB(A) at the nearest noise-sensitive location.

REASON: In the interests of surrounding residential amenity.

12. A detailed Noise Impact Assessment shall be provided for the site, full details of which shall be submitted to and approved in writing by the Planning Authority as part of future detailed applications for the Approval

of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP) in the development of the site. The assessment should, inter alia, examine the potential impact on the development from those existing premises surrounding the development site, and any detailed proposals regarding site layout etc. should reflect any requirements for noise mitigation which will minimise the potential for complaints of excessive noise from either existing, or proposed, premises.

REASON: To allow the Planning Authority to consider these aspects in detail.

13. Notwithstanding the provisions of Condition 4(iii) above, the details to be submitted shall include a Drainage Impact Assessment (DIA) and Flood Risk Assessment (FRA), which identifies all possible sources of flooding (and lists the actions required to alleviate any such problems identified) and details how the surface waters for the site are to be dealt with.

REASON: To allow the Planning Authority to consider these aspects in detail.

14. Notwithstanding the provisions of Conditions 4(iii) and 13 above, the SUDS for the site shall be developed and contain details of how the 1:200 year storm event is to be attenuated/dealt with on the site, and full details shall be provided of the intended discharge point, e.g. to a sewer or to a watercourse (this will determine discharge rate allowable), and overall details will be required of the intended maintenance regime for the SUDS and basin and who will have maintenance responsibilities thereof. The 1:200 Flood route to the Attenuation facility shall require to be demonstrated to function and be capable of containing the waters within the channel of the road, and to this end the levels/crossfalls of the roads and verges/footpaths and the Finished Floor Levels of the adjacent building would be required to allow checking that this flood route is viable and will not place any property at risk along its route. Details shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any works on site.

REASON: In the interests of the proper flood planning and servicing of the site.

15. No development shall commence on site until a site investigation and risk assessment has been carried out. (PAN 33 Para 37). The investigation shall be conducted in line with BS 10175: 2001 code of practice for 'The investigation of potentially contaminated sites' and Contaminated Land Report 11 – 'Model Procedures for the Management of Land Contamination', (CLR 11). The report should be compiled with reference to East Ayrshire Councils' Guidance document "An Introduction to Land Contamination and Development Management"

The report will contain details of proposals to deal with contamination to include:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages;
- (iii) A Remedial Strategy (if required) to treat/remove contamination to ensure the site is fit for the use proposed; and
- (iv) Measures to deal with unsuspected contamination discovered during construction works;

REASON: To ensure potential risks arising from previous site uses have been fully assessed.

16. If the Site Investigation and Risk Assessment is approved under Condition 15 above, prior to any further site development, the developer shall submit a further report, confirming that the remedial work (if undertaken) has been carried out in accordance with the remediation plan.

REASON: To provide verification that remediation of has been carried out in accordance with the remediation plan and to the Authority's satisfaction

17. Notwithstanding Condition 3 above, and prior to the submission of any further application(s) for the Approval of Matters specified in the Conditions of this Planning Permission in Principle (AMCPPP) in the development of the site, a Green Travel Plan shall be submitted to and approved in writing by the Planning Authority. The travel plan shall:

- (i) Clarify how the proposed development can influence travel behaviour towards sustainable travel;
- (ii) Outline the measures to be adopted to promote and achieve sustainable travel;
- (iii) Outline how sustainable travel can be integrated between the mix of land uses and potential occupiers can be achieved; and
- (iv) Provide a timetable for the delivery of the agreed travel plan measures.

The Green Travel Plan shall thereafter be implemented as approved.

REASON: In the interests of promoting sustainable travel.

#### REASON FOR THIS DECISION

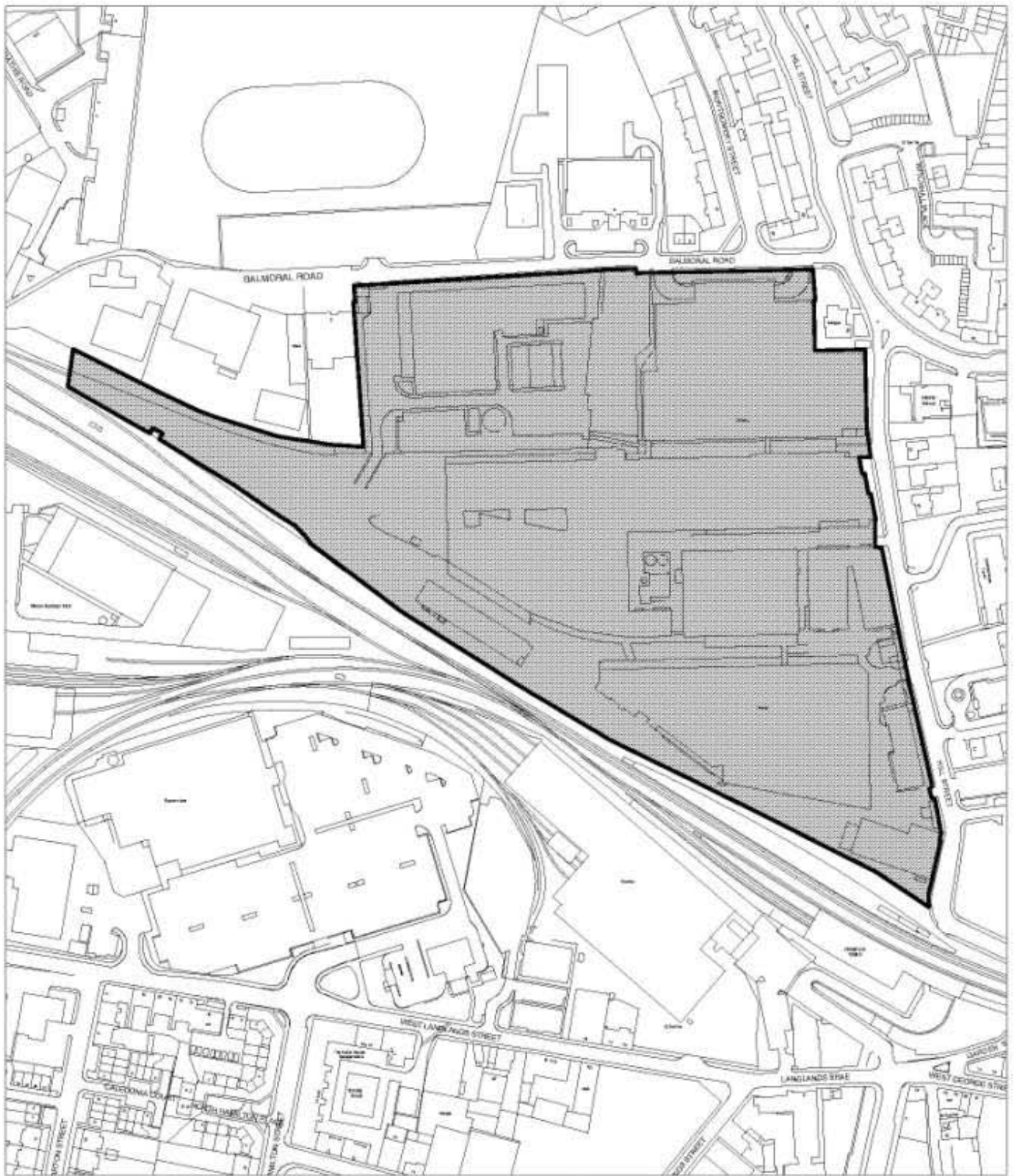
The proposal, although significantly contrary to the industrial and business designation and policy provisions of the adopted East Ayrshire Local Plan 2010, it



is considered that the wider community benefits which will accrue from the development will assist in the regeneration of Kilmarnock. Consequently the material considerations in this instance are of significant weight to justify a departure from the development plan.

### Advisory Notes

1. The applicant should note the East Ayrshire Access Panel is willing to advise on detailed matters in terms of accessibility at the detailed planning stage and can be contacted via Susan Fulton of East Ayrshire Council's Planning and Economic Development Service at .East Ayrshire Council, The Johnnie Walker Bond, 15 Strand Street, Kilmarnock, KA1 1HU.
2. The applicant should note that Strathclyde Police [Secured by Design] will advise on detailed matters re crime prevention and design at the detailed planning stage and early discussion is recommended with the Architectural Liaison Officer at Kilmarnock Police Station, St Marnock Street, Kilmarnock.
3. The applicant is advised that Road Construction Consent is required prior to the commencement of any development. Early contact is recommended with the Council's Roads Division at East Ayrshire Council, The Johnnie Walker Bond, 15 Strand Street, Kilmarnock, KA1 1HU.
4. The applicant is advised to contact Scottish Power and Scottish Gas Networks in relation to their apparatus in the area.
5. Any Sustainable Urban Drainage Scheme should not be sited within 10 metres of railway infrastructure.
6. Early contact is advised with Network Rail relative to the following comments that have been received:-
  - a) If not already in place, the applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made.
  - b) The proximity and type of planting proposed are important when considering a landscaping scheme. Leaf fall in particular can greatly impact upon the reliability of the railway in certain seasons. Network Rail can provide details of planting recommendations for neighbours. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary.

- c) The demolition of buildings or other structures near to operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Engineer before development can commence.
  - d) Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The applicants should obtain Network Rail's approval of their detailed lighting proposals.
  - e) Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "failsafe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.
7. All waste arising from the works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.
8. Suitable dust suppression measures should be introduced where appropriate during the construction phase.
9. All discharge of surface water shall comply with the terms of the Water Environment (Controlled Activities) (Scotland) Regulations 2005 (as amended). Subsequent to the consent herein, any further detailed applications will require to take account of the sustainable transport options for the whole site.
10. Further to the terms of Condition 17 above, Strathclyde Passenger Transport has advised that, due to the variety of land uses and potentially a number of different occupiers, the appointment of a Travel Plan Coordinator would be beneficial. This should be fully considered when formulating the Green Travel Plan. Further guidance in this respect can be sought from both SPT and East Ayrshire Council's Roads and Transportation Service.



<p>Title/Location    <b>18-20 Hill Street</b></p> <p>                          <b>Kilmarnock</b></p> <p>                          <b>Application No. 11/0242/PPP</b></p>	<p><b>East Ayrshire Council</b></p> <p>Department of Neighbourhood Services          Planning &amp; Economic Development Service          The Johnnie Walker Bond          15 Strand Street          Kilmarnock KA1 1HU          Tel: (01563) 576790    Fax: (01563) 554592          E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a>          Com Date: 15/06/2011</p> <div style="text-align: right;">  </div>
<p>Key</p> <div style="display: flex; align-items: center;">  <p><b>Application Site</b></p> </div>	

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