

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 25 APRIL 2008**

**08/0119/FL: DEMOLITION OF VACANT BUILDING, ERECTION OF SIX  
DETACHED DWELLINGHOUSES, FORMATION OF NEW ACCESS AND  
ASSOCIATED TRAFFIC CALMING MEASURES  
AT: FORMER LEISURE CENTRE, GROUGAR, MOSCOW  
BY ATD DEVELOPMENTS LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Planning permission is sought to erect six detached dwellinghouses with associated traffic calming road works. The existing building to be demolished is finished in grey coloured roughcast with concrete roof tiles and covers a large proportion of the area pertaining to the application site.

Three house types are proposed for the site:

- House type A covers a footprint area of some 133 square metres and is two storey in height with a single attached garage.
- House Type B covers a footprint area of some 107 square metres and is two and a half storeys in height with a single attached garage.
- House Type C covers a footprint area of some 128 square metres and is two and a half storeys in height with a double attached garage.

All proposed dwellinghouses are finished externally in textured render with smooth cement basecourse, white upvc windows with smooth cement window bands, white upvc doors with smooth cement door surrounds and grey coloured concrete roof tiles.

All proposed dwellinghouses are accessed from a new shared surface access leading from the adjacent public road. The shared access road has been formed to a width of 5.5 metres with a 2.0 metre wide grass service strip as opposed to formal footpaths to retain the character of the rural setting.

The application includes details of proposed traffic calming measures which may require speed humps to be formed in the public road on the approaches to the site.

Part of the application site, which includes the two existing portacabins associated with the office building, is located outwith the footprint of the existing

office building and car park area. This part of the application site includes the rear garden area of plots 3 and 4 of the proposed development.

## **2. RECOMMENDATION**

**2.1 It is recommended that the planning application be approved subject to the conditions indicated on the attached sheet, and subject to the notification of the Scottish Ministers in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2007.**

**2.2 It is recommended that the Planning application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraph 7.3 of the report.**

## **3. CONCLUSIONS**

3.1 As indicated in the report, the application is considered broadly contrary to the terms of the Development Plan. Therefore it should be refused unless material considerations indicate otherwise.

3.2 However, as per Section 6 of the report there are material considerations relevant to the application and in this instance due to the distinctive nature of the site it is considered on balance that these considerations are of sufficient weight to merit the approval of the application.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, it will not require to be referred to the Principal Planning Committee as there would be no significant breach of Council Policy.

**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 a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation, due to the fact that the proposal is a departure from the Local Plan and more than 10 separate third party objections have been submitted in respect of the application.

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

2.1 **Site Description:** The application site relates to a vacant office building and car park area with two associated portacabins and part of the adjacent public road. The application site covers an area of some 0.32 hectares, located within the Rural Protection Area some 320 metres south of Moscow. The application site is bounded to the north and west by agricultural land, to the west by residential properties and to the south by the public road.

2.2 **Proposed Development:** Planning permission is sought to erect six detached dwellinghouses with associated traffic calming road works. The existing building to be demolished is finished in grey coloured roughcast with concrete roof tiles and covers a large proportion of the area pertaining to the application site.

2.3 Three house types are proposed for the site:

- House type A covers a footprint area of some 133 square metres and is two storey in height with a single attached garage.
- House Type B covers a footprint area of some 107 square metres and is two and a half storeys in height with a single attached garage.
- House Type C covers a footprint area of some 128 square metres and is two and a half storeys in height with a double attached garage.

All proposed dwellinghouses are finished externally in textured render with smooth cement basecourse, white upvc windows with smooth cement window bands, white upvc doors with smooth cement door surrounds and grey coloured concrete roof tiles.

2.4 All proposed dwellinghouses are accessed from a new shared surface access leading from the adjacent public road. The shared access road has been formed to a width of 5.5 metres with a 2.0 metre wide grass service strip as opposed to formal footpaths to retain the character of the rural setting.

2.5 The application includes details of proposed traffic calming measures which may require speed humps to be formed in the public road on the approaches to the site.

2.6 Part of the application site, which includes the two existing portacabins associated with the office building, is located outwith the footprint of the existing office building and car park area. This part of the application site includes the rear garden area of plots 3 and 4 of the proposed development.

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

3.1 East Ayrshire Council's Roads and Transportation Division have recommended refusal of the application as the applicant has not successfully addressed the road drainage issues for the development. It is further advised that the developer is required to obtain road construction consent prior to the commencement of works on site.

***Should the Committee be minded to approve the proposal a condition can be attached requiring the applicant to provide details of a Sustainable Urban Drainage Scheme for the proposal which would require to be implemented and operational prior to the occupation of the first dwellinghouse.***

***A note could be attached to any consent advising the applicant of the need to obtain Road Construction Consent prior to commencing any works on site.***

3.2 East Ayrshire Council's Roads and Transportation Flooding Section have no objections to the application and note that any potential flooding would come from the nearby watercourse which is at a considerably lower level than the site. The applicant should confirm what the proposals are for the treatment and disposal of surface water discharge from the site.

***Should the Committee be minded to approve the proposal a condition can be attached requiring the applicant to provide details of a Sustainable Urban Drainage Scheme for the proposal which would require to be implemented and operational prior to the occupation of the first dwellinghouse.***

3.3 East Ayrshire Council's Environmental Health Division offer the following comments:

3.3.1 All waste arising from the demolition and construction works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.

3.3.2 Although the site is located in a generally rural environment close to Moscow, there are a number of dwellings in its immediate proximity. Accordingly, the applicants should ensure that no nuisance is caused to nearby residents from any demolition/ construction activities (eg smoke, dust, noise etc).

3.3.3 Regarding any potential issue of noise it is suggested that any potentially noisy site works be restricted to the hours of 0700 – 1900 hours Monday to Friday and 0800 – 1300 on a Saturday and not at all on a Sunday.

3.3.5 The Contaminated land officer has suggested the inclusion of a general caveat to the effect that if any unsuspected contamination is encountered during the development, the Council should be informed accordingly along with any required remedial measure formulated to address the risk of exposure to key receptors and subsequent confirmation of completion of the works.

***Notes can be attached to any grant of planning permission advising the applicant regarding treatment and disposal of demolition material and the prevention of nuisance to residents from construction/ demolition activities.***

***Conditions can be attached to any grant of planning consent to address any potential ground contamination from previous uses and to restrict operating hours for noisy works on the site.***

3.4 Scottish Water have no objections to the application but advise the applicant that this does not guarantee a connection to Scottish Water's

infrastructure and that the applicant will require to make separate contact with Scottish Water to make connection to the water network.

***A condition can be attached to any grant of planning consent addressing the provision of a water supply to serve the development.***

3.5 Scottish Environment Protection Agency (SEPA) have made no objection in principle to the proposal however they request that the following matters are addressed:

3.5.1 The applicant should confirm that the foul drainage proposals will be connected to the public sewer.

***A condition can be attached to any grant of planning consent addressing the provision of foul drainage to serve the development.***

3.5.2 Surface water associated with the proposed development must be treated in accordance with the principles of SUDS Manual (C697) published by CIRIA in March 2007. SEPA would welcome the imposition of a planning condition requiring that the applicants submit and agree a suitable SUDS system with your authority, in consultation and agreement with SEPA.

***A condition can be attached to any grant of planning consent requiring the approval of a SUDS system prior to the occupation of the first dwellinghouse on the site.***

3.5.3 SEPA considers that the methodologies applied in the flood risk assessment are generally acceptable, even with a complete blockage of the downstream culvert, it appears that the site is around one metre above the flood relief level and therefore is unlikely to be at significant risk of flooding from the Volga Burn.

***Noted.***

3.5.4 Construction works associated with the development of the site must be carried out with due regard to SEPA's guidelines on avoidance of pollution. Reference should be made to the relevant Pollution Prevention Guidance (PPG) notes available on SEPA's website and to the Ciria publication C651 "Environmental Good Practice Pocket Book". Any waste materials imported to the site during construction must be stored and used only in accordance with the waste management licence or exemption under the Waste Management Licensing Regulations 1994 (as amended).

***A note can be attached to any grant of planning consent to refer the applicant to SEPA's guidelines on avoidance of pollution and the need for a waste management license.***

3.6 Moscow Community Council have objected to the application but also acknowledge that their objection is contrary to the “show of hands” vote taken at the Community Council meeting, which indicated that the majority of people attending the meeting were in favour of the proposal. The points of objection are as follows:

3.6.1 The application is not in keeping with policy.

***It is acknowledged that the application site is located outwith the settlement of Moscow and is therefore potentially contrary to the terms of the East Ayrshire Local Plan. However, the application site immediately adjoins a cluster of three residential properties and has a long established use, in the first instance as a primary school, then as a community/ leisure centre and more recently as an office. It is therefore considered that the longstanding brownfield planning history of the site and the improved design standards of the proposed development can in this instance result in an acceptable departure from the terms of the local plan.***

3.6.2 The proposed houses are too large to fit in well with the surrounding area. The height and frontage of the 4 houses with 3 levels of accommodation being of considerable concern, also the distance between houses in 3 out of the 6 plots as there is only a single access to the rear gardens

***It is noted that the existing dwellinghouses adjacent to the application site are a mixture of house types including single storey, one and a half storey and two storey houses. Indeed, in the village of Moscow, notably at New Gill Haw, two storey dwellinghouses with attached single garages have recently been constructed. In addition, the nearby Burnhouses farm includes a larger two storey detached dwellinghouse with an associated two storey outbuilding which faces gable end immediately onto the public road. Consequently it is considered that the size and scale of the proposed dwellinghouses are in keeping with the surrounding area and with Moscow.***

***It is acknowledged that the proposed dwellinghouses are two and a half storey in scale, some with a single dormer window to the front elevation. However, given that the overall height of the dwellinghouses is two storey with the dormer and velux windows set into the roof space, it is considered that the design of the proposed dwellinghouses will not result in an adverse effect on the visual appearance of the surrounding area.***

***The proposed dwellinghouses meet the required local plan standards in relation to distance from boundaries, size of plots and allocation of private garden ground.***

3.6.3 There is no requirement to demolish the existing building which currently has consent for conversion. This conversion would result in six more affordable dwellings being constructed which, considering the economical climate and East Ayrshire Policy would be more in keeping with the rural environment.

***It is considered that the existing office building is of no particular architectural merit and does not reflect or harmonise with the landscape character of the surrounding area or the adjacent residential properties. Furthermore, the current application proposes the erection of six detached dwellinghouses which are considered to provide best architectural practice in their detailing, scale and proportion and reflect adjacent design features to advantage. The application site is not identified in the East Ayrshire Local Plan as a site appropriate for the provision of affordable low cost housing.***

3.6.4 This application is overdevelopment of the site.

***The proposed dwellinghouses meet the required local plan standards in relation to distance from boundaries, size of plots and allocation of private garden ground and therefore the proposed development is not considered to be overdevelopment of the site.***

3.7 Scotland Gas Networks have not objected to the proposal.

***Noted.***

3.8 Scottish Power have no objection in principle and advise that Scottish Power have an operational sub station and/or underground apparatus and/or overhead lines in the area of the proposals.

***A note can be attached to any grant of planning consent to refer the applicant to Scottish Power to ascertain the location of any Scottish Power apparatus.***

#### **4. REPRESENTATIONS**

4.1 The application was advertised in the Kilmarnock Standard. A petition, containing 20 signatures and 12 letters have been received in support of the application. Thirty nine letters of objection were received from forty six objectors in connection with the application.

#### **Petition and letters of support**

4.2 I am fully in support of the proposal to change the leisure centre into six new family homes. This development will benefit not only the residents of East Raws Steading but the community of Moscow as a whole.

4.3 Primarily the building formerly occupied by ATD Developments is an eyesore. The building currently has planning permission for a number of residential units, this proposal would see the retention of a building with little architectural merit and is not in keeping with the surrounding housing. The newly proposed scheme proposes to erect six beautifully designed houses which add value to the area and to Moscow itself.

4.4 One way to render Moscow an attractive place for people to bring up their family is to offer attractive family homes. Detached houses would enhance the area and would be more likely to entice people to stay in the village rather than smaller houses that tend to be short stay properties. I believe the proposed scheme to be well designed and considerate of surrounding houses and the style within the village.

4.5 I attended a Community Council meeting to discuss the proposal. A public vote was taken which was 20-10 in favour of the development. The Community Council voted to object to the planning application, this was in absolute contrast to the public vote. The Community Council objection does not reflect the view of the residents who voted at the meeting.

***It is acknowledged that the existing office building is of no particular architectural merit and does not reflect or harmonise with the landscape character of the surrounding area or the adjacent residential properties.***

***The current application proposes the erection of six detached dwellinghouses which are considered to provide best architectural practice in their detailing, scale and proportion and reflect adjacent design features to advantage.***

***Section 3 of this report acknowledges that the Community Council objected to the application contrary to the public vote taken at the Community Council meeting.***

#### **Letters of Objection**

4.6 Forty-one letters of objection were received, from forty eight objectors, in connection with the proposal. The points of objection are summarised below:

#### Demolition of the former leisure centre

4.7 As regards the former Moscow Leisure Centre it is extremely wasteful to demolish a perfectly sound building. The existing building also blends in well with the rural environment and for that reason should be retained.

4.8 The Moscow school building is a perfectly good building and used to be at the heart of village life. To demolish the building would be wanton destruction and cannot be justified.

4.9 Moscow community does not have a community meeting place, which is much needed and I feel that the old school building would fulfil all the requirements needed and should be retained for the benefit of the local community organisations.

4.10 The Moscow school building was only built 25 years ago and I do not consider its demolition is of interest to the community and is also contrary to the Development Plan.

4.11 I understand that an agreement has been reached to build the houses on the land where the new community hall is to be built and that the developer would return the old school building to the community.

4.12 Why demolish a perfectly good building when it already has had planning consent to convert into six affordable family homes.

4.13 The effect of the demolition would be harmful to those local residents who suffer with lung and chest problems. The dust pollution caused by this proposed unnecessary demolition cannot be judged or ignored by a responsible Council.

***It is acknowledged that the building appears to be structurally sound and was until recently occupied as an office building. However, it is not considered that the design of the building compliments or enhances the adjacent residential properties or the landscape character of the area.***

***It should be noted that the demolition of the building does not require planning consent and is therefore not contrary to the terms of the Development Plan. The Council's Building Standards Section has recently approved a Building Warrant for the demolition of the building.***

***Planning consent was granted on 28 October 2005 for the erection of a new public community hall and the formation of traffic calming at a site adjacent to Dykescroft in Moscow. The construction of a new Community Hall, centrally located within Moscow, will provide a venue for the benefit of local community organisations.***

***The issue of exchanging areas of land to build the proposed houses on the approved site for the new community hall is a private legal matter between the parties involved.***

***Planning permission was granted on 28 August 2004 for the change of use and alterations from a leisure centre to form six dwellinghouses (03/1054/FL). However, it is considered that should the committee be minded to approve this application the current proposal would result in an enhanced standard of design of dwellinghouse and housing layout more in keeping with the adjacent residential properties and the surrounding area.***

***The Council's Environmental Health Section has not objected to the demolition of the office building nor to the planning application.***

### Design of Houses

4.14 The proposed houses are not in keeping with the area and the rest of the village and are not going to be affordable homes whereas the existing planning consent are.

4.15 We wish to object to the height of the houses, the flat façade of the houses and the close proximity of the houses to each other.

4.16 The development puts too many houses on very small plots in a small area at the edge of the hamlet and is overdevelopment of the site.

4.17 The proposed buildings on plot 5 and 6 will overlook my property and cause visual intrusion.

4.18 The private garden areas would not appear to meet the minimum requirements.

4.19 The distances in some instances between the houses and the boundary fence are inadequate.

4.20 The distance between opposing main rooms windows in four of the plots do not appear to meet minimum requirements.

4.21 The roof ridges are higher than the existing buildings increased further by chimneys.

***It is noted that the existing dwellinghouses adjacent to the application site are a mixture of house types including single storey, one and a half storey and two storey houses. Indeed, in the village of Moscow, notably at New Gill Haw, two storey dwellinghouses with attached single garages have recently been constructed.***

***In addition, the nearby Burnhouses farm includes a larger two storey detached dwellinghouse with an associated two storey outbuilding which faces gable end immediately onto the public road. Consequently it is considered that the size and scale of the proposed dwellinghouses are in keeping with the surrounding area and with nearby residential properties in Moscow.***

***The proposed dwellinghouses meet the required local plan standards in relation to distance from boundaries, size of plots and allocation of private garden ground and therefore the proposed development is not considered to be overdevelopment of the site. The housing layout accords with local plan policy in relation to the distance between windows of habitable rooms in facing houses. Consequently the proposal does not result in an unacceptable invasion of privacy or overlooking of properties adjacent to the site.***

***In relation to plots 5 and 6 it is considered that the proposed dwellinghouses are sufficient distance, some 18 metres distant from the adjacent existing dwellinghouses, and situated at an angle to each other, so as not to cause any significant overlooking issues that would result in any adverse affect on the residential amenity of the existing dwellinghouses.***

***As previously acknowledged the proposed dwellinghouses are two and two and a half storey in height. Whilst the inclusion of chimneys in the design of the dwellinghouses adds to the overall height of the buildings, it is considered that the chimneys provide an architectural feature which enhances the overall design of the development.***

#### Parking and Traffic Calming Measures

4.22 I have strong reservations about inadequate parking provision for the development. In this rural location there will be additional parking pressure from visitors and service vehicles which should be accommodated within the site.

4.23 The proposed traffic calming measures would increase the speed of traffic through the village to the crossroads.

***The Council's Roads Division has not objected to the application and has recommended the formation of speed humps on the approaches to the site in order to slow the speed of traffic.***

#### Development Plan

4.24 To put an oversized development such as this outside the settlement area of the village must be against the policy of the East Ayrshire Local Plan.

4.25 The proposed houses cannot be considered as affordable housing.

***It is acknowledged that the application site is located outwith the settlement of Moscow and is therefore potentially contrary to the terms of the East Ayrshire Local Plan. However, the application site immediately adjoins a cluster of three residential properties and has a long established use, in the first instance as a primary school, then as a community/ leisure centre and more recently as an office. It is therefore considered that the longstanding brownfield planning history of the site and the improved design standards of the proposed development can in this instance result in a departure from the terms of the local plan.***

***The application site is not identified in the East Ayrshire Local Plan as a site appropriate for the provision of affordable low cost housing.***

#### Restriction of Access and Servitude Rights

4.26 The fence proposed to run in front of Grougar Croft will result in access problems and parking problems to the property at Grougar House, my access and rights of servitude to the rear of my property will be affected.

***The issue of rights of access and rights of servitude are a private legal matter for the parties involved.***

## **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 (2007) and the Adopted East Ayrshire Local Plan (2003).

#### Ayrshire Joint Structure Plan

5.2 Policy COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill site within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

***The applicants submit that the existing vacant office building cannot be readily reused and therefore the site specific locational need for***

***the proposed dwellinghouses to be located in this location within the rural area, relates to the redevelopment of a brownfield site. The vacant nature of the buildings is considered to demonstrate a site specific locational need for residential re-use of the site. The proposal does not provide for the operational needs of agriculture and forestry.***

### East Ayrshire Local Plan

5.3 Policy SD3 states that, within the Rural Protection Area, development Proposals relating to land located outwith settlement boundaries will be acceptable to the Council only in five stated circumstances.

(i) comprises an acceptable form of residential use as detailed in Policy RES13 of the Local Plan: or

***As detailed in section 5.5 the proposal does not form an acceptable form of residential use as detailed in Policy RES13.***

(ii) can be fully justified in terms of site specific locational need; or

***As detailed in section 5.2 the reuse of this redundant former office brownfield site does demonstrate a site specific locational need for the proposal.***

(iii) can be fully justified in terms of social and economic benefit to the community; or

***It is considered that the proposal will result in some social and/or economic benefit to the community.***

(iv) contributes to rural land diversification; or

***It is considered that housing does not contribute to rural land diversification.***

(v) provides for the operational needs of agriculture or forestry.

***The proposal does not provide for the operational needs of agriculture and forestry.***

5.4 Policy SD6 states that the Council will positively encourage the re-use and redevelopment of brownfield land, both in the area settlements and in the rural area, in preference to the development of Greenfield sites. The release of

greenfield land for development will require to be fully justified and will be supported only where an alternative, developable brownfield site is not readily available, marketable or capable of development for the purposes envisaged.

***The applicants submit that the proposal is in accordance with policy SD6 given that the proposal will redevelop an existing brownfield site where the existing buildings on site do not lend themselves to acceptable standards of conversion or re-use.***

***Whilst the redevelopment of this brownfield site in the rural area is not presented as an alternative to the development of a greenfield site, it is considered that it generally accords with the principle aim of this policy to redevelop a redundant brownfield site prior to the release of any Greenfield sites. However the proposal fails to satisfy the terms of strategic policy SD3 and in turn RES13 which provide criteria for acceptable residential proposals outwith settlements.***

***The proposal fails to satisfy the majority of the criteria of the policies SD3 and RES13, however if accepting the clear brownfield nature of the site, the proposal satisfies the general principle of policy SD6.***

5.5 Policy RES13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

The policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

***The proposal fails to comply with the set criteria of Policy RES13.***

5.6 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

***Schedule 4 requires detached dwellinghouses to provide a minimum open space allocation of 100 sq metres private garden ground for each dwellinghouse. It is considered that the plot sizes for each***

***dwellinghouse exceeds the minimum private open space requirement.***

5.7 The applicant has been requested to confirm a contribution to the Leisure and recreation fund under Policy TLR5 of the Adopted East Ayrshire Local Plan.

***The applicant has confirmed that they are willing make a voluntary financial contribution towards the Council's Leisure and Recreation Fund.***

5.8 Policy RES 17 states that residential development in the countryside will not be permitted in nine stated criteria. Criteria (i) to (iv) and (vi) to (ix) are not applicable. In this instance criteria (v) is applicable:

- (v) where the development would constitute an extension from those clearly defined groups of houses not delineated by a formal settlement boundary within the Rural Protection Areas as identified on the Local Plan maps.

***The application site is located outwith the settlement boundary of Moscow and is situated immediately adjacent to an existing cluster of dwellinghouses. Given that the application seeks to replace an existing office building with six residential properties the proposal would not constitute an unacceptable extension from the existing group of housing.***

5.9 Policy ENV 7 states that all developers will be expected to fully comply with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. Developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council. In this instance the relevant Design Guidance is New Residential Development (2).

***In terms of design, scale and materials it is considered that the proposed development accords with the Design Guidance as it is sympathetic to nearby residential properties. The road and parking layout complies with the Roads Division Guidelines.***

5.10 On balance whilst the proposal meets the general aim of policy SD6 it fails to satisfy the criteria of policies SD3 and RES13 which outline the relevant criteria for appropriate residential development in the countryside. Therefore the proposal is broadly considered to be contrary to the terms of the development plan.

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations, the planning history of the site, the applicants supporting statement, Planning Advice Notes and the impact on the amenity of the area.

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused subject to the imposition of appropriate conditions on any grant of planning consent.

### Representations

6.3 A substantial body of representations have been received in support and in objection to the application. The points of objection relate to demolition of the building, design of housing, parking and traffic calming measures and the local plan. The issues raised by the objectors are addressed at Section 4 of this report and are not considered to be of sufficient weight to merit the refusal of the application.

### Impact on the Amenity of the Area

6.4 The existing office building on the site is vacant and cannot be reused readily for other uses therefore it is likely that they will be left to deteriorate and will be viewed as a derelict, significant visual blot on the rural landscape if the site is undeveloped. It is considered that the regeneration of this brownfield site in the countryside to residential use would improve the amenity of the surrounding residential properties and given the distinctive nature of the site it is considered preferable to redevelop the site rather than to leave the existing building in a relatively prominent site in the rural area, to fall into a state of disrepair.

The applicants have submitted a marketing report conducted by Shepherd Chartered Surveyors and Graham and Sibbald Consultants that advises that the marketing of the site for a continued office/business use resulted in a limited interest from potential occupiers. The report states that the lack of interest in the building from commercial occupiers is due to the site's rural location, the unusual configuration of the building, the lack of natural light in the central core of the building and the availability of purpose built office space in larger settlements in East Ayrshire that benefit from better transport links. The consultants report concludes that the building is obsolete.

Given the size and nature of the existing building on the site which cannot be redeveloped for other business purposes and that the site is immediately adjacent to a cluster of residential properties, the proposed redevelopment of this site is more beneficial in terms of creating an enhanced residential development which will positively contribute to the visual amenity of the area and to be more in keeping with the adjacent settlement at Moscow.

### Planning History

6.5 Planning application (97/0900/FL) was withdrawn on 03 February 1997; change of use from primary school to library service headquarters with facilities within for education and community use.

6.6 Planning permission (98/0591/FL) was approved with conditions on 13 November 1998; change of use from former school to community centre/leisure club/football pitches and extension to building to form changing rooms.

6.7 Planning application (03/0023/FL) was refused planning permission on 14 August 2003; change of use from leisure centre, extensions and alterations to form 6 dwellinghouses.

6.8 Planning permission (03/0154/FL) was approved with conditions on 26 August 2004; change of use from leisure centre, extensions and alterations to form 6 dwellinghouses.

6.9 Planning permission (04/0789/FL) was approved subject to conditions on 26 November 2004 for the change of use from leisure centre to temporary office accommodation.

6.10 Planning permission (06/0144/FL) was approved subject to conditions on 17 August 2006; conversion of offices into 6 residential units and change of use.

6.11 Planning application (07/01045/FL) was withdrawn by the applicant on 28 January 2008; demolition of vacant building and the erection of 7 detached dwellinghouses.

### Planning Advice Notes

6.12 PAN44 provides guidance on 'fitting new housing developments into the landscape'. It is evident that any landscape and visual impacts arising from the development would be significantly less than those associated with the existing visually intrusive building, of little architectural merit, on site at present and the removal of the office building will result in an improved landscape setting. Given the topography of the land, which gently slopes downwards from a north to south

direction it is considered that the dwellinghouses at the entrance to the site will provide a definitive edge on the main access road and will be viewed in the context of the adjacent cluster of dwellinghouses.

6.13 PAN 72 “Housing in the Countryside” sets out the expectations of the planning system to deliver high standards of design in rural areas. PAN 72 emphasises the importance of layout and design features within a development. The proposed development includes a layout which takes cognisance of the rural setting and provides a courtyard type of layout and incorporates architectural features of nearby and adjacent dwellinghouses. The proposed road design includes a shared surface layout with grassed service strips to reflect the rural setting of the development. The overall aim of the development ensures that the dwellinghouses are carefully located within the site, are worthy of the setting and reflect a sensitive design process.

#### Applicant’s Supporting Statement

6.14 The applicant has submitted a planning statement in support of the application (which can be viewed during normal office hours at the Council Office in Croft Street, Kilmarnock). The supporting statement provides site characteristics and history, an outline of the proposal, assessment against planning policy, appeal decisions, material considerations and national planning policy guidance.

6.15 With regards to National Planning Policy Guidance the applicants submit that SPP1, SPP3, SPP15 and SPP17 are applicable.

#### SPP1 The Planning System

6.15.1 Paragraph 47 of SPP1 provides guidance on deciding a planning application. It states that the aims and objectives of the development plan as well as the detailed wording of the policies should be considered. SPP 1 also states that the identification and consideration of the relevant material considerations must be taken into account.

#### SPP3 Planning for Housing

6.15.2 The applicants submit that SPP3 Planning for Housing sets out the Governments’s policy in relation to housing development. SPP3 recommends that planning authorities should create quality residential environments, guide development to the right places and deliver an adequate supply of housing land. Paragraphs 29, 30 and 31 provide guidance to promote the re-use of previously developed land or land that is no longer in a position to be used for its original purpose, in preference to Greenfield land, provided a satisfactory residential environment can be created. Under the terms of SPP3 the application site is defined as a brownfield site.

Paragraph 56 of SPP3 recognises that there are opportunities available in the countryside where some limited housing may be acceptable and where it results in a cohesive grouping well related to the landscape setting. This policy aim fits with the proposal and as a result will be a development which not only relates well to an existing group of residential dwellings but also creates a cohesive group of houses on a site in need of rehabilitation.

### SPP15 Planning for Rural Development

6.15.3 SPP 15 'Planning for Rural Development' is a material consideration in the determination of this application. Paragraph 37 of said document indicates that the SPP 15 should be implemented through alterations to development plans. As a direct result of this and the ongoing review of the East Ayrshire Local Plan, a Finalised Draft East Ayrshire Local Plan is currently out on deposit, SPP 15 will be taken into full consideration. Until then, the current East Ayrshire Local Plan remains the principal policy document against which all planning applications are assessed.

### SPP17 Planning for Transport

6.15.4 SPP17 seeks to promote sustainable patterns of development through the integration of transport and planning. Land use planning can contribute to this through; reducing the need to travel by regulating the pattern of land uses in relation to each other and to transport facilities, enabling people to access local facilities over local networks, supporting the provision of quality public transport access and supporting the management of motorised travel to enable it to undertake its essential role effectively.

### Planning Appeals

6.16 Two appeal decisions within the East Ayrshire area, one at Waterslap and one at Hollybush are notable in the consideration of this application. Firstly, the appeal decision to allow the development of six houses at Waterslap, Fenwick Ref P\PPA\190\121. The site subject of appeal was somewhat similar to the Moscow Leisure Centre site in that it had brownfield status and was also covered by policy RES13, which requires a site specific locational need to be identified for new residential units. Paragraph 69 of the Reporters report states:-

"Policy RES 13 was also referred to in the reasons for refusal, and requires a site specific locational need that has not been demonstrated in this case. There is a potential conflict however between policies RES13 and SD6 (brownfield land), but as there are no qualifications to the latter I am satisfied that it should take precedence, given the brownfield status of the site."

The Reporter indicates a clear weighting being attached to the brownfield argument over and above any requirement under Policy RES13 to demonstrate a site specific locational need.

6.17 The appeal decision regarding a site at Balgreen Farm, Hollybush (P\PPA\190\140) proposed the erection of four houses on a site of a previous farm steading. In this instance, the Reporter agreed with the importance of SPP15 as a material planning consideration and highlighted the requirement for planning authorities to include this planning guidance in their decision making process when considering rural development sites.

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

7.1 There are financial and legal implications for the Council in the determination of this application.

7.2 The Council is required to notify the Scottish Government under the Town and Country Planning (Notification of Applications) (Scotland) Direction 2007 as planning authorities are obliged to submit to the Scottish Ministers an application where the Council is the owner of the land, the proposal is contrary to the development plan and the application has been the subject of a substantial body of objection.

7.3 The applicant's agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5, will require a formal agreement to be entered into between the Council and the applicant, should the application be approved.

## **8. CONCLUSIONS**

8.1 As indicated in the report, the application is considered broadly contrary to the terms of the Development Plan. Therefore it should be refused unless material considerations indicate otherwise.

8.2 However, as per Section 6 of the report there are material considerations relevant to the application and in this instance due to the distinctive nature of the site it is considered on balance that these considerations are of sufficient weight to merit the approval of the application.

## **9. RECOMMENDATION**

**9.1 It is recommended that the planning application be approved subject to the conditions indicated on the attached sheet, and subject to the notification of the Scottish Ministers in accordance with the Town and Country Planning (Notification of Applications) (Scotland) Direction 2007.**

**9.2 It is recommended that the Planning application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraph 7.3 of the report.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, it will not require to be referred to the Principal Planning Committee as there would be no significant breach of Council Policy.

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

16 April 2008 (JL/SA)  
FV-DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. East Ayrshire Local Plan (2003).
5. Ayrshire Joint Structure Plan (2007).
6. Planning application 97/0900/LA
7. Planning Permission 98/0591/FL
8. Planning Refusal 03/0023/FL
9. Planning Permission 03/1054/FL
10. Planning Permission 04/0789/FL
11. Planning Permission 06/0144/FL
12. Planning Application 07/1045/FL
13. Applicant's Supporting Statement.
14. SPP1 – The Planning System
15. SPP3 – Planning for Housing
16. SPP15 – Planning for Rural Development
17. SPP17 – Planning for Transport
18. PAN44 - Fitting New Housing Development into the Landscape

19. PAN72 – Housing in the Countryside

Anyone wishing to inspect the above papers please contact Jane Little Planning Officer, on 01563 576768.

**Implementation Officer: Dave Morris**

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

08/0119/FL

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Site of Proposal:	Former Leisure Centre GROUGAR MOSCOW KA4 8PW
Nature of Proposal:	Demolition of vacant building, erection of six detached dwellinghouse, and formation of new access
Name & Address of Applicant:	ATD Developments Ltd. Clark House Rowallan Business Park Kilmarnock KA3 6BQ
Name & Address of Agent:	Carricks Hay Darley 7 Alloway Place Ayr KA7 2AE

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DPOs Reference:

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

1. The Planning Authority shall be informed immediately should the presence of unsuspected contaminated land be encountered during construction and appropriate remedial measures to treat the contamination shall be formulated to

the requirements of the Planning Authority and be implemented on site thereafter as approved.

Reason: To ensure that any contamination is appropriately addressed in the interests of residential amenity

2. Should any contaminated land be found on site, a comprehensive contaminated land investigation shall be submitted to, and approved in writing by, the Planning Authority.

The investigation shall be conducted in line with BS 10175: 2001 code of practice for "*The investigation of potentially contaminated sites*" and will contain details of proposals to deal with contamination including:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages.
- (iii) Remedial measures to treat/remove contamination to ensure the site is fit for the use proposed.

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

3. If the presence of contaminated land is found on the site and prior to any further site development, the developer shall submit a report confirming that any remedial works have been carried out in accordance with the remediation plan required under condition 2 above.

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

4. Construction work shall be restricted to the hours of 0800 to 1700 hours Monday to Friday, 0800 hours to 1300 hours on a Saturday and not at all on Sundays.

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

5. Prior to the commencement of any construction works on site, details shall be submitted of the foul drainage proposals, for the prior written approval of the Planning Authority, thereafter the foul drainage scheme shall be installed on site in accordance with the approved details prior to the occupation of the first dwellinghouse.

REASON To ensure a satisfactory foul drainage system is provided for the development.

6. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban Drainage System shall thereafter be installed on site prior to the occupation of the first dwellinghouse.

REASON To ensure that adequate drainage is provided.

7. Prior to the commencement of works on site, evidence shall be submitted that the developer has reached an agreement with Scottish Water for the provision of a water supply to serve the development.

REASON To ensure adequate provision of a water supply for the development.

8. Prior to the commencement of any construction works on site, full details of a scheme for both hard and soft landscaping shall be submitted to and approved by the Planning Authority. Said landscaping scheme shall be implemented not later than the next available planting season after the development has been carried out to the satisfaction of the Planning Authority.

REASON To ensure the provision of an appropriate landscaped area in the interest of residential and visual amenity.

9. Notwithstanding the plans hereby approved details of the proposed street lighting to serve the development shall be submitted to and approved in writing by the Planning Authority. Such details shall allow for the design of street lighting to reflect the rural location of the site.

REASON In the interest of visual amenity.

10. Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

11. All proposed external finishing materials for the dwelling houses shall be in accordance with specifications detailed on the 'House Type' plans hereby approved unless otherwise agreed in writing by the Planning Authority.

REASON In the interest of visual amenity.

12. Details of the traffic calming measures proposed on the public highway within the application site, shall be submitted to and agreed in writing with the Planning Authority, prior to any work commencing on site. The approved traffic calming measures shall be installed and operational prior to the occupation of the first dwellinghouse on site and thereafter be retained and maintained in accordance with the approved details.

REASON In the interests of traffic safety on the public highway.

NOTES TO APPLICANT:-

1. Demolition of the existing buildings should be undertaken in accordance with the provisions of the relevant Code of Practice. All demolition material should be suitably disposed of and any special wastes (ie asbestos) should be dealt with in accordance with regulatory requirements and disposed of to licensed landfill authorised for its acceptance.
2. The developer shall ensure that no nuisance is caused to nearby residents from any demolition activities eg. smoke, dust, noise etc.
3. Construction works associated with the development of the site must be carried out with due regard to SEPA's guidelines on avoidance of pollution (PPG1, 5 and 6).
4. The developer shall contact SEPA with regards to the requirement to obtain a waste management license or confirmation of exemption.
5. The removal of waste off site must be in accordance with the waste management regulations and the developer should contact SEPA with regards to the relevant requirements relating to the transport of controlled waste by registered carriers and the furnishing and keeping of duty of care waste transfer notes.
6. The developer shall make early contact with Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
7. The developer shall contact Scottish Water Planning and Development Services team for permission to connect to the public water network and to discuss whether the existing water supply may need upgrading in view of the proposed development.

8. The developer shall contact the Council's Roads and Transportation Division with regards to obtaining road construction consent prior to the commencement of the development.

9. The developer shall contact Scottish Power with regards to ascertaining the location of any apparatus within or adjacent to the development site.

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