

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE 23 MAY 2008**

**08/0116/FL: ERECTION OF 14 RESIDENTIAL UNITS AND ASSOCIATED CAR  
PARKING  
AT ROWALLAN CASTLE ESTATE, KILMAURS, KILMARNOCK, KA3 2LP  
BY DUFFIELD MORGAN LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Planning permission is sought to erect a single courtyard building comprising of 14 linked dwellinghouses relatively centrally within the site served by rectangular parking area immediately to the front (south west). The courtyard building would be 2 storey construction with most of the first floor accommodation within the attic. The first floor rooms are therefore served predominantly by cat-slide dormer windows. The central section of each side of the courtyard incorporates a higher element where the windows are either partly or mainly within the wall of the house rather than the roof.

1.2 The architectural style proposed is traditional with vertically proportioned timber sash and case look-a-like windows, rubble stone walls, white render, ashlar stone window surrounds and quoins, slate roof with lead capping, stone coping, and fielded panel painted timber doors. There is a full 2 storey pend entrance to the courtyard on the south west elevation beside the car park and a contemporary style glazed picture window with a horizontal emphasis at each corner.

1.3 The car park is indicated as having a gravel finish with 22 car parking spaces. The internal courtyard is described on the plan as a 'landscaped pedestrian courtyard amenity area' and incorporates a large central grassed area surrounded by slabs providing pedestrian access to each house. No individual private gardens are to be delineated and the area outwith the courtyard building is shown as a grassed amenity area with native species shrub and tree planting to the perimeter.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the Planning Application be approved subject to the conditions indicated on the attached sheet, but that any decision notice not be issued until the Solicitor to the Council has concluded an**

**agreement with the applicant under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the points identified within Section 7 of the report.**

### **3. CONCLUSIONS**

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

3.2 As per Section 6 of the report there are material considerations relevant to the application and in this instance due to the unique nature of the site, proposal, planning history and wider economic development context it is considered on balance that these are of sufficient weight to merit the approval of the application.

### **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 not be a significant breach of Council Policy.

**Alan Neish**  
**Head of Planning & 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.**

## EAST AYRSHIRE COUNCIL

### NORTHERN LOCAL PLANNING COMMITTEE 23 MAY 2008

#### 08/0116/FL: ERECTION OF 14 RESIDENTIAL UNITS AND ASSOCIATED CAR PARKING AT ROWALLAN CASTLE ESTATE, KILMAURS, KILMARNOCK, KA3 2LP BY DUFFIELD MORGAN LTD

#### 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 Northern Local Planning Committee under the scheme of delegation, due to the fact that the proposal represents a significant departure from the Development Plan.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is within Rowallan Estate to the north of Kilmarnock and is accessed from the B751 Kilmaurs to Fenwick public road. The application site comprises of a rectangular parcel of land to the east of the Engine House, Stable Block and Gamekeepers Cottages and the existing access road within the Rowallan Castle Estate. The Stable Block is a category B listed building. Excluding the access road, which is over 1km in length, the site measures approximately 110metres x 90metres (approximately 1ha). This land is currently part of a slightly sloping grass field, close to the north-eastern edge of the estate. There are mature trees to the north, west and south field boundaries.

2.2 Rowallan Estate is characterised by its avenue approach to the mansion house, various plantations and shelter belts, formal garden and parkland. The original Rowallan Castle is a category 'A' listed building and Scheduled Ancient Monument which sits within its own scheduled area. The Estate includes the more recent building, known as the "Lorimer" House which is a category 'A' Listed Building. Part of the grounds, outwith the application site, are recorded as being an Historic and Designed Landscape and the grounds, including the application site, and are substantially designated as a Provisional Listed Wildlife Site.

2.3 **Proposed Development:** Planning permission is sought to erect a single courtyard building comprising of 14 linked dwellinghouses relatively centrally within the site served by rectangular parking area immediately to the front (south west). The courtyard building would be 2 storey construction with most of the first

floor accommodation within the attic. The first floor rooms are therefore served predominantly by cat-slide dormer windows. The central section of each side of the courtyard incorporates a higher element where the windows are either partly or mainly within the wall of the house rather than the roof.

2.4 The architectural style proposed is traditional with vertically proportioned timber sash and case look-a-like windows, rubble stone walls, white render, ashlar stone window surrounds and quoins, slate roof with lead capping, stone coping, and fielded panel painted timber doors. There is a full 2 storey pend entrance to the courtyard on the south west elevation beside the car park and a contemporary style glazed picture window with a horizontal emphasis at each corner.

2.5 The car park is indicated as having a gravel finish with 22 car parking spaces. The internal courtyard is described on the plan as a 'landscaped pedestrian courtyard amenity area' and incorporates a large central grassed area surrounded by slabs providing pedestrian access to each house. No individual private gardens are to be delineated and the area outwith the courtyard building is shown as a grassed amenity area with native species shrub and tree planting to the perimeter.

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

3.1 Kilmaurs, Stewarton and Fenwick Community Councils No response

***Noted***

3.2 East Ayrshire Council's Roads and Transportation Division Approval subject to the following conditions.

- a) The application site is not contiguous with an existing public road and will require the access road from the B751 to the application site to be constructed to adoptable standard or to be provided with sufficient road bond security, prior to commencement of any building works.
- b) The access road within the application site should be constructed to adoptable road standard. The road layout plan will require to be amended to indicate a suitable turning head at the end of the road. No building work should commence until the road layout plan is approved by the Roads Division. A possible turning head arrangement was enclosed.
- c) The treatment and disposal of road surface water must be approved by SEPA and Roads prior to commencement of any building works. The normal method used within the estate is to allow runoff from the road to soakaway into the adjoining fields. The applicant should therefore ensure that the proposed road lies higher than the

surrounding ground. There may be difficulties at the turning area with this solution and the applicant should be asked to submit proposals in his area.

- d) The adoption of the access road from the junction with the B751 will require the developer / residents to apply for a 30 mph speed limit to be promoted by the Roads Authority. No obstructions shall be placed across the proposed adopted road, such as the intended access control gates at the entrance to the estate.
- e) The parking provision for the residential development should be three spaces per dwelling, as the lack of other means of transport to the site makes private vehicle access the only option.

***These matters can be addressed by conditions and advisory notes***

3.3 East Ayrshire Council Roads Division Flooding Section No objections

***Noted.***

3.4 East Ayrshire Council's Outdoor Amenities Division No response

***Noted***

3.5 East Ayrshire Council's Environmental Health Division. No objections in principle to the development subject to the following comments:-

1. 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.
2. Noise from the works during construction should at no time cause the underlying background noise level LA90(1hour) to rise by more than 3dB(A).
3. All waste arising from the construction works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.
4. All drainage should be completed to the satisfaction of Scottish Water and/or SEPA.
5. I understand that our Contaminated Land Officer has not identified any specific area of concern but has suggested the inclusion of a general caveat on any conditions of approval to the effect that if any unsuspected contamination is encountered during the development, the Council should be informed immediately and remedial measures formulated to address the risk of exposure to key receptors.

***These matters can be addressed by conditions***

3.6 East Ayrshire Council – Access Officer. No response

***Noted***

3.7 Scottish Water has no objections to the application. However Scottish Water indicates that any planning approval granted by the Local Authority does not guarantee a connection to its infrastructure.

***This matter can be addressed by an advisory note***

3.8 Scottish Environment Protection Agency (SEPA) No response

***Noted***

3.9 Transco No objections. Comments made regarding the presence of gas mains and contact details provided.

***This matter can be addressed by an advisory note***

3.10 Power Systems No objection. Comments made regarding location of cables and pipes.

***This matter can be addressed by an advisory note***

3.11 West of Scotland Archaeology Service – No objections to the proposal and no substantive archaeology issue is raised by the application.

***Noted.***

3.12 Historic Scotland Has stated that it will provide comments

***No comments received at the time of writing this report***

3.13 Scottish Civic Trust No response

***Noted***

3.14 Architectural Heritage Society No comments

***Noted***

3.15 Garden History Society No objection. In response to previous applications the Society considers that the decision to allow development within the Rowallan Castle Estate can only damage the overall integrity and character of the historic designed landscape. As this current area has previously been

granted permission for the erection of a similar number of golfing lodges, it appears that the precedent has already been set for development at this location. Regrettably therefore the Society feels there is little further it can add to this consultation and reluctantly offers no objection to these proposals.

***Noted***

3.16 Scottish Natural Heritage No comments

***Noted***

3.17 Scottish Wildlife Trust No objection. All tree planting should however be native species.

***This matter can be addressed by a condition***

3.18 Health & Safety Executive (PADHI+) The HSE does not advise on safety grounds against the grant of planning permission in this case. They note that the Council may wish to consider contacting the pipeline operator before deciding the case.

***Noted. Transco has already been consulted. See paragraph 3.9 above.***

#### **4. REPRESENTATIONS**

4.1 The application has been advertised as Development Contrary to the Development Plan and as affecting the setting of a listed building. One letter of objection has been received on the following grounds;

a) As a neighbour I have not been neighbour notified

***The application has been accompanied by a signed neighbour notification certificate and is therefore valid in planning terms. From the information available the neighbour notification has been carried out in accordance with the requirements of planning legislation.***

b) Under the section 75 the applicant is allowed 35 houses to sell – permission already granted – and 14 club share units which under clause B3.2 are not to be occupied for more than 6 months in any calendar year and cannot be used as a residence. These extra 14 houses are ancillary to the golf / leisure and hotel phases of the development – in other words they are only for the use of members of the leisure, golf or hotel guests as very short term lets. These 14 houses can therefore not be for sale.

***The Section 75 legal agreement associated with the original outline planning permission has been discharged and does not materially affect the processing of this planning application. The Development Plan implications are dealt with at Sections 5 and 6 as there is a difference between club share and residential use.***

- c) As none of these phases is complete, as the hotel has no furnishings or staff these houses are therefore against the section 75 which the applicant and my family were co signatories to on the above two counts

***The Section 75 legal agreement has been discharged and does not materially affect the processing of this planning application.***

- d) I would advise that if this is passed by the Council I will seek a judicial review of the proceedings as it would be prejudicial to the listed grade 1 listed Lorimer buildings and designed landscape of Rowallan. After all the section 75 was created to stop this sort of damage and speculative planning.

***The Council has followed the correct procedures in the processing of this application which has been assessed on its own merits taking into account the development plan and all other material considerations. Specifically the assessment of the application takes into account the design of the proposal and the setting of listed buildings. The original Section 75 legal agreement has been discharged and does not materially affect the processing of this planning application.***

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

5.2 Outline consent was previously granted for the principle of 14 'clubshare' holiday homes as part of a larger planning application for the overall development of Rowallan Castle Estate. However, this consent has since lapsed and this application has now been submitted for residential use. Supporting information has been submitted stating that there is an existing funding gap of £5 million to complete the championship golf course and new hotel accommodation wing and spa. It is proposed that profits from the sale of the land upon which would be erected the proposed residential development will be used towards meeting this gap in funding. This application cannot therefore be assessed against policy RES 8, Enabling Development as profits will not be used to restore a listed building. The application therefore falls to be assessed against policy

COMM 5 of the Ayrshire Joint Structure Plan and policy RES 13 of the East Ayrshire Local Plan.

### **Ayrshire Joint Structure Plan**

5.3 Policy COMM 5 (Housing in the Countryside) 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 sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

***The proposed housing is not required for any of the above purposes. It is therefore contrary to the provisions of policy COMM 5.***

### **East Ayrshire Local Plan**

5.4 Policy RES 13 states that the council will be 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 activity concerned
- (ii) 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 RES8 above.

***The housing is not required for any of the above purposes and is therefore contrary to the provisions of policy RES 13.***

5.5 As stated in RES19, the council will require all housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. Developers will be expected to pay due regard to the indicative basic standards set out in Schedule 3 of the Local Plan in preparing their proposals although the precise type, size, location and design of the open space will be depend on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

***The plans submitted by the applicant show an acceptable amount of open space provision. See comments under RES 22 below.***

5.6 Through policy RES22, all developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan.

***The plans submitted by the applicant show a courtyard layout, with the 14 proposed dwellings facing inwards around a landscaped pedestrian amenity area. Each individual unit therefore has no private allocated open space, as instead the open space is communal for the use of all units within the development. In addition to this there is a large amount of open space surrounding the proposed houses. It is considered that the amount of open space provided overall in the development is acceptable, particularly recognising the courtyard development format.***

5.7 Policy ENV1 states that the Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological sites and landscapes.

***Rowallan Estate contains both 'A' and 'B' listed buildings as well as a scheduled monument. The proposed development does not detrimentally affect any of these as the application site is set apart from the listed buildings in a self contained field. The housing proposed is also of a sympathetic layout, design and material finish.***

5.8 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. The policy also states that development proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

***The traditional courtyard layout of the development is in keeping with the adjacent 'B' listed stables. It is also considered that the material finish of the building is acceptable for this location.***

5.9 Policy ENV5 states that the Council will seek to protect, preserve and enhance Historic Gardens and Designed Landscapes. In instances where a proposed development affects an Historic Garden or Designed Landscape, a landscape management plan will require to be submitted as an integral part of any application submitted to the Council for consideration. The policy also states that outline planning applications for proposals affecting Historic Gardens and Designed Landscapes will not be accepted by the Council.

***The application site does not lie within the Historic Gardens and Designed Landscape at Rowallan Estate, but does sit adjacent to its boundary. Relevant amenity bodies do not object. As recognised by the Garden History Society, the same number of club share units was consented at this location previously. A landscape scheme and management plan can be required by planning condition.***

5.10 Policy ENV10 states that the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved by five stated means. One of these is pertinent to the application as follows:

- (iii) development likely to adversely affect local nature reserves and provisional wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded whenever possible. Where development is approved for such sites, appropriate measures should be taken to conserve and manage, as far as possible, the sites' biological or geological interest and to provide for replacement habitats or features where damage is unavoidable;

***Scottish Natural Heritage and the Scottish Wildlife Trust do not object to this application. The application is not contrary to the provisions of policy ENV 10.***

5.11 Policy ENV15 states that the Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire. In particular, the Council will:

- (i) strongly encourage the protection and positive management of remaining areas of ancient and semi-natural woodland. The retention and positive management of existing hedgerows and any proposals for new hedgerow planting will be supported;

***The south-western boundary of the development site, and that part of the access road running immediately north-west of the site, respectively, include and may affect trees within an area of designated Ancient Woodland which is an integral part of the***

***designed landscape of Rowallan Estate. The submission does not include a survey of those trees which would be affected by the development or indicate which, if any, it is intended would require to be removed for the proposal to proceed. Scottish Natural Heritage does not object to this application. It is considered that the development could proceed without a significant detrimental affect on the existing trees. Conditions are recommended regarding tree survey, protection and planting.***

5.12 This application does not comply with policy COMM 5 of the Ayrshire Joint Structure Plan and policy RES 13 of the East Ayrshire Local Plan and a tree survey would be required to assess mitigating tree planting where required relative to the Ancient Woodland. The proposal is therefore a departure from the development plan.

5.13 However, it is for the Council to take into account other material considerations such as the economic development benefits of the hotel and golf course which the Council may consider to outweigh the development plan in this case. These issues are considered in more detail below.

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representation, the planning history of the site, the impact on the amenity of the area and heritage resources, Planning history, the applicants supporting statement and wider economic development considerations.

### Consultation Responses

6.2 The consultation responses are summarised in Section 3 and 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 The representation received has been summarised in Section 4 of the Report and is not considered to be of such weight as to merit refusal of the application.

## Impact on the Amenity of the Area and the heritage resource

6.4 It is considered that the proposed development, subject to conditions, is sited, designed and externally finished in a manner which is sympathetic to the sensitive built and natural heritage in the area. There are considered to be no over-riding detrimental impacts in terms of residential or visual amenity subject to the imposition of suitable conditions.

## Planning History

6.5 There is an extensive planning history to the wider Rowallan Castle Estate site encompassing a number of planning permissions and listed building consents certain of which have commenced on site. Of relevance to the current application is the outline planning permission for the conversion of the castle to Hotel and Leisure Facilities, ancillary accommodation in estate buildings erection of 49 houses (including 14 units required to be club share), 18 hole golf course and associated landscaping and road improvements at Rowallan Castle and Estate, Kilmaurs (East Ayrshire Council Ref 98/0365/OL). That application was approved by the Scottish Ministers in March 2001, following an extensive Public Inquiry and included, on an indicative basis only, a similar style of courtyard development as that currently proposed on this application site. The outline consent for this current site has however lapsed.

6.6 A reserved matter application 03/0946/RM for the proposed development of Hotel, Leisure and Golf Course was conditionally approved in April 2004. Planning and listed building consent applications (06/1010/FL and 06/0941/LB) for the alteration and extension of building to form bedrooms and leisure facilities for hotel at Rowallan Castle were conditionally approved in July 2007. Reserved matter application 04/0297/RM for the erection of 35 dwellinghouses within Rowallan Estate was conditionally approved in September 2007. An application for Residential development on the current application site (06/1097/RM) was withdrawn on 21<sup>st</sup> February 2008.

6.7 The golf course is well underway on site. The hotel and leisure development has been the subject of a relatively recent permission. The applicant is indicating, as noted below, that this proposal is crucial to the full implementation of the golf course and hotel / leisure development.

## Applicant's Supporting Letter

6.8 The applicant has submitted information in support of the application. The supporting letter is in the form of a position statement which sets out where the applicant considers Rowallan castle fits into the bigger East Ayrshire picture in terms of the local community, tourism developments and the economy. The

applicant's views, as expressed in the supporting statement, are summarised below.

6.9 The applicant has owned Rowallan Castle Estate for nearly two decades. He indicates that Rowallan Castle Golf Club and its five star hotel will be a massive asset to East Ayrshire and Scotland and will put the area firmly on the Scottish tourist map. The target opening date for the golf course and hotel is 2009 coinciding with the Open at Turnberry, the Homecoming and the opening of Dumfries House to the public. The Championship golf course at Rowallan is the first to be designed in the UK by seven times European Golfer Colin Montgomerie, which will bring millions of pounds from overseas into the local economy over the coming years. The golf operation is to be managed to the highest possible standards by IMG which is the biggest sports management company in the world. The course is now 95% complete and is on schedule for its opening in the summer of 2009 and he is hopeful that this will coincide with the opening of the five star hotel. The hotel is to be operated by Gordon Campbell Gray who is one of the world's most respected and experienced hoteliers. It is stated that the hotel will provide 175 full-time equivalent jobs.

6.10 The applicant states that there are planning issues that need to be resolved to provide the financial position to complete the hotel to the above noted schedule. There is a significant funding gap of £5 million to complete the Championship golf course and new hotel accommodation wing and spa at Rowallan New Castle. The applicant states that he is confident that the majority of this gap can be bridged if this planning application is approved. The applicant states that he has existing consent to build 14 club share properties on the same site so is effectively looking simply for a change of use. There is a buyer in place for the site, and a deal – subject to planning permission for 14 residential units – that will bridge the majority of the funding gap for the hotel development.

### Economic Development

6.11 As noted above Rowallan Castle Estate has a long and complex planning history. However, in simple terms the Council has supported the golf course and hotel development and is of the view that it is fundamentally of sound economic value to East Ayrshire. This proposal fits well with previous planning approvals for this particular site and the wider estate. The Council is satisfied that there is an over-riding economic development benefit to the area arising from the completion of the golf course and the operation of the hotel. To that end it is considered that this fact, together with other material considerations including the detailed siting and design, are of sufficient weight to justify a departure from the development plan. It would be necessary to ensure that the economic development (i.e. the hotel extension / leisure complex and golf course) on which the departure from the development plan is justified does materialise and a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 could address that issue as outlined in Section 7 of this Committee report.

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

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

7.2 The legal implications for the Council in the determination of this application would comprise entering into a legal agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. In terms of the agreement to be entered into the following matters would require to be addressed prior to commencement of the development.

1. The applicant shall ensure to the satisfaction of the Council that all capital realised from the sale of the housing site for residential use is invested in the hotel extension/ leisure complex and golf course.

2. The applicant shall ensure that any funding gap remaining after the disposal of the site for residential use which requires to be made to secure the full implantation of the hotel extension/ leisure complex and golf course is addressed to the satisfaction of the Council.

3. The applicant shall evidence to the satisfaction of the Council that they have let a contract for the construction of the hotel extension/ leisure complex and golf course.

7.3 The applicant has not responded to the request to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5. There will not therefore have to be a formal agreement between the Council and the applicant regarding this matter.

## **8. CONCLUSIONS**

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

8.2 As per Section 6 of the report there are material considerations relevant to the application and in this instance due to the unique nature of the site, proposal, planning history and wider economic development context it is considered on balance that these 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 but that any decision**

**notice not be issued until the Solicitor to the Council has concluded an agreement with the applicant under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the points identified within Section 7 of the report.**

### **CONTRARY DECISION NOTICE**

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 not be a significant breach of Council Policy.

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

13 May 2008  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Representation
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (2007).
7. Planning Permission 98/0365/OL.
8. Planning Permission 03/0946/RM
9. Planning Permission 04/0297/RM
10. Planning Permission 06/1010/FL
11. Planning application withdrawn 06/1097/RM
12. Listed building consent 06/0941/LB
13. Applicant's Supporting Statement.

Anyone wishing to inspect the above papers please contact Austin Cooke, Planning Officer, on 01563 576772.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

08/0116/FL

---

Site of Proposal:	Rowallan Castle Estate Kilmaurs Kilmarnock KA3 2LP
Nature of Proposal:	Erection of 14 residential units and associated car parking
Name & Address of Applicant:	Duffield Morgan Ltd Rowallan Castle. Kilmaurs Kilmarnock Ayrshire KA3 2LP

---

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

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order revoking and re-enacting that order, permitted development classes 1 to 9 of Schedule 1 of the said Order are hereby removed in relation to the application site.

REASON In the interests of road safety and the character, appearance and amenity of the surrounding area.

2. Accurate and consistent floor and elevation plans of the proposed courtyard housing shall be submitted to for the formal prior written approval of the Planning Authority before any work commences on site. The housing shall thereafter be constructed as approved.

REASON The submitted plans contain certain inconsistencies which require to be rectified in the interest of the proper planning of the area.

3. Before any works start on site, cross-sectional plans shall be submitted for the prior written approval of this Planning Authority indicating; the extent of the development site, the existing ground level, the proposed ground level, the finished floor levels, and the ridge level of the proposed development. Until such time as the required plans have been approved by this Planning Authority no work shall commence on site and once approval has been granted, the development shall be undertaken in accordance with the details approved further to this condition.

**REASON** In the interest of visual amenity and in order to retain proper control over the development proposal due to the sloping nature of the site and the proximity of the site to listed buildings and designed landscape.

4. Before any works start on site, the developer shall establish a fixed datum point and shall submit to the Planning Authority a plan indicating the exact location and value of this datum point. The finished floor level(s) of the development relative to the fixed datum shall also be indicated on this plan. This agreed datum point shall be used for future reference as the development proceeds. The developer shall notify this Planning Authority at the stages listed below:-

- (a) The completion of the foundation work
- (b) Immediately prior to the completion of the ground floor, finished floor level
- (c) When the roof trusses have been erected but before roof covering takes place.

**REASON** To enable this Planning Authority to establish that the development is commencing from the correct level based on an agreed fixed datum point; and

- (a) In order to ensure that site works are progressing in accordance with the stamped approved plan.
- (b) In order to ensure that the floor levels conform to the stamped approved plan illustrating floor levels.
- (d) In order to ensure that the height of the roof conforms to the stamped approved plan.

5. Notwithstanding the plans hereby approved samples of all external materials (including colours and surfacing materials) shall be submitted to and agreed in writing by the Planning Authority before any development commences on the site. For the avoidance of doubt the roof shall be clad in natural slate, the walls externally finished in wet dash render and the windows and doors constructed of timber. The development shall be carried out thereafter in accordance with the details as agreed.

REASON: In the interest of visual amenity.

6. Before any works start on site, details of the proposed drying greens and dustbin area enclosures for each dwelling shall be submitted to for approval in writing by the Planning Authority. The approved details shall be fully provided prior to the occupation of the development and thereafter shall be permanently maintained.

REASON In the interests of residential and visual amenity; to ensure that appropriate and acceptable facilities are provided.

7. Before any works start on site, a scheme of landscaping indicating the siting, numbers, species and heights (at time of planting) of all trees, shrubs and hedges to be planted, and the extent and profile of any areas of earth mounding, shall be submitted to for approval in writing by the Planning Authority. The scheme as approved shall be implemented within the first planting season following the completion or occupation of the development, whichever is the sooner. For the avoidance of doubt the planting shall be native species.

REASON In the interests of visual amenity and to ensure a satisfactory standard of local environmental quality.

8. Before any works start on site, the developer shall institute an accurate survey to be carried out by a qualified arboriculturist of all trees existing on the site and all trees adjacent to or overhanging the site and submit details of any trees proposed to be felled or lopped and those to be retained. The survey shall contain details of the position, canopy spread, bole diameters, health, size and species of all trees within the curtilage of the site. No trees shall be felled, topped, lopped or have roots cut or damaged without the prior written approval of this Planning Authority.

REASON In the interests of visual amenity; to ensure that all trees worthy of retention are satisfactorily protected before and during construction works.

9. All trees existing on the site at the date of this decision shall be retained and no trees shall have roots cut or be lopped, topped, felled, uprooted or removed.

REASON In the interests of visual amenity; to ensure that all trees worthy of retention are satisfactorily protected before and during construction works.

10. Before any works start on site, the developer shall submit details and specifications of the protective measures necessary to safeguard the trees on the

site during development operations. This Planning Authority shall be formally notified in writing of the completion of such measures and no work on site shall commence until the Planning Authority has confirmed in writing that the measures as implemented are acceptable. The protective measures shall be retained in a sound and upright condition throughout the development operations and no building materials, soil or machinery shall be stored in or adjacent to the protected area, including the operation of machinery.

**REASON** In order to ensure that no damage is caused to the existing trees during development operations.

11. Before any works start on site, details of the future management and aftercare of the proposed landscaping and planting shall be submitted to for approval in writing by the Planning Authority. Thereafter the management and aftercare of the landscaping and planting shall be carried out in accordance with these approved details.

**REASON** In the interests of visual amenity; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

12. All planting carried out on site shall be maintained by the developer in accordance with good horticultural practice for a period of 5 years from the date of planting. Within that period any plants which are dead, damaged, missing, diseased or fail to establish shall be replaced annually.

**REASON** In the interests of visual amenity and effective landscape management; to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

13. Details of all factoring arrangements within the development where they relate to the maintenance and management of the site, shall be submitted to and agreed in writing with the Planning Authority, prior to any work commencing on site.

**REASON:** To ensure the proper future maintenance and management of the site.

14. The access road from the B751 to the application site shall be constructed to a potentially adoptable standard prior to commencement of any building works.

**REASON** The application site is not contiguous with an existing public road and will require the access road from the B751 to the application site to be

constructed to potentially adoptable standard in the interests of road safety and the proper planning of the area.

15. All construction work and delivery traffic shall enter the site via the new access formed with the B751 and there shall be no other vehicular access taken to the development site, without the express written consent of the Planning Authority.

REASON In the interests of road safety.

16. The road layout and parking plan is NOT hereby approved and shall be amended to indicate a suitable turning head at the end of the road and a minimum of 3 car parking spaces per dwelling. Before any building work commences on site an amended road layout and parking layout plan shall be submitted to for the prior written approval of the Council as Planning Authority. Thereafter, these details shall be provided on site as approved.

REASON The application site is not contiguous with an existing public road and will require the access road from the B751 to the application site to be constructed to adoptable standard and sufficient car parking spaces provided in the interests of road safety and the proper planning of the area.

17. Before any work commences on site, details of a Sustainable Urban Drainage System (including road drainage) 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 dwellinghouses. The normal method used within the estate is to allow runoff from the road to soakaway into the adjoining fields. The applicant should therefore ensure that the proposed road lies higher than the surrounding ground. The above noted information shall include full details of the turning area drainage.

REASON To ensure that adequate drainage is provided.

18. 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.

19. If any unsuspected contamination is encountered during the development, the Council shall be informed immediately and remedial measures formulated to address the risk of exposure to key receptors. These measures shall be submitted to and approved in writing by the Planning Authority prior to their implementation.

REASON: To ensure potential risks are fully assessed and remediation measures implemented to the Authority's satisfaction.

20. Construction work shall be restricted to the hours of 0700 to 1900 hours Monday to Friday, 0800 hours to 1300 hours on a Saturday and not at anytime 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.

21. Noise from the works during construction shall at no time cause the underlying background noise level LA90(1hour) to rise by more than 3dB(A).

REASON To prevent noise and disturbance

22. Details of the proposed street lighting shall be submitted to and agreed in writing by the Planning Authority, prior to any work commencing on site. Thereafter, the approved lighting shall be installed and operational prior to the occupation of the last house on site.

REASON In the interests of road safety and residential amenity.

23. 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 in writing 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.

24. The developer shall ensure that during the development phase, adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other materials carried from the site.

REASON: In the interests of the amenity of the area.

## **NOTES TO APPLICANT**

1. The adoption of the access road from the junction with the B751 will require the developer / residents to apply for a 30 mph speed limit to be promoted by the Roads Authority. No obstructions shall be placed across the proposed adopted road, such as the intended access control gates at the entrance to the estate.
2. The developer shall contact SEPA with regards to the requirement to obtain a waste management license or confirmation of exemption.
3. The removal of waste off site must be in accordance with the waste management regulations and the developer should contact SEPA with regard 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.
4. The developer shall make early contact with Scottish Environment Protection Agency and Scottish Water regarding the utilisation of a Sustainable Urban Drainage System (SUDS) to accommodate surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS. All drainage should be completed to the satisfaction of Scottish Water and SEPA.
5. 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, prior to any work commencing on site.
6. 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.
7. The developer shall contact Scottish Power with regard to any of their apparatus located at the site, prior to any work commencing on site. (Reference DM/47589, Elaine Barr, Scottish Power, St Vincent Crescent, Glasgow, G3 8LT Tel 0141 567 4155)
8. The developer shall contact Scotland Gas Networks with regard to any of their apparatus located at the site in order to prevent any damage to Scottish Gas Networks plant, prior to any works commencing on site. Contact Scotland Gas Networks at 95 Kilbirnie Street, Glasgow G5 8JD telephone 0141 418 4093 (Reference SC/14.03.08/NA54942/87379). The plant protection department of Scotia Gas Networks has also requested that they are contacted prior to work commencing on site and the contact is Mr B Quigley, Network Technician, Riverbank House, Burnside Street, Kilmarnock, KA1 4EU tel 01563 573462

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**