

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 07 OCTOBER 2011**

**10/0955/PP: ERECTION OF 68 DWELLINGHOUSES AND ASSOCIATED WORKS  
AT: FORMER STODDARD CARPET FACTORY, BARBADOES ROAD,  
KILMARNOCK**

**BY CLOWES DEVELOPMENTS (SCOTLAND) LTD**

### **Supplementary Report by Head of Planning and Economic Development**

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

1.1 The purpose of this report is to present for consideration by the Northern Local Planning Committee a full planning application. This application was continued by the Committee at the meeting of 09 September 2011 for further detail and information with regard to the Traffic Management Plan. Details to be submitted were also to include the extent of works programmed by Scottish Water.

#### **2. TRAFFIC MANAGEMENT PLAN AND SCOTTISH WATER PROPOSALS**

2.1 The traffic management plan conditions proposed, should planning consent be granted, require the applicant to direct the infill traffic, in connection with the requirement to raise site levels, to use a rural route thereby minimising the infill traffic utilising the residential streets surrounding the Stoddards site. The rural route begins at the Dundonald Road roundabout and travels along the unclassified road to the south of the slaughter house in an approximately south easterly direction until it meets with Holmes Road. A Scottish Water owned access track would then be utilised, located to the south of, and adjacent to, the A71. The track would then cross under the A71 and cross the floodplain towards the Stoddards site.

2.2 This route was investigated by the applicant at the behest of the Roads and Transportation Service to ensure that adverse traffic impact from infill traffic on residents in streets surrounding the application site would be minimised. The applicant has advised that Scottish Water would be amenable to such an arrangement. Scottish Water has indicated to the applicant that as part of the Meadowhead and Stevenston infrastructure upgrade works, Scottish Water will be undertaking their own work in the same area at a similar time. In this respect, planning application 11/0556/PP, approved under delegated powers on 01 September 2011, authorises the construction of a storm water transfer pumping station immediately adjacent to the private access track as well as the provision of a compensatory storage area. Furthermore, Scottish Water will lay new pipework through the floodplain area using their permitted development rights thus not requiring planning permission.

2.3 To enable these works to be undertaken, Scottish Water will require to temporarily upgrade the unclassified rural route through the provision of passing places and slight adjustments to its route. A temporary access track over the flood plain will also be required. The exact details of these works have not yet been submitted to or approved by the Roads and Transportation Service although an indicative Scottish Water layout has been submitted by the applicant. Scottish

Water's planning consent ref.11/0556/PP includes a traffic management plan condition to ensure that the access details are of sufficient standard however details have not yet been submitted by the applicant to discharge this condition.

2.4 All of the works to the route are to be undertaken by Scottish Water and are therefore outwith the direct control of the applicant. The applicant has achieved an agreement with Scottish Water, in principle, to utilise their route but is not responsible for the route itself. Until such times as Scottish Water formally approach the Council to finalise the access arrangements, the exact scope of the upgrade works remains to be confirmed. However, whilst the exact operation of the route remains to be agreed between Scottish Water and the Council, the scope of the traffic management plan under consent 11/0556/PP and any other agreements under the relevant Roads legislation would ensure that the access route to the Scottish Water site, and by implication, the Stoddards site, would be acceptable.

### **3. CONCLUSIONS**

3.1 The infrastructure upgrade works being undertaken by Scottish Water have already gained planning consent and will be undertaken in the near future subject to discharging conditions related to traffic management plans and achieving agreement with the Roads and Transportation Service. As these works will require to be on site regardless, it is prudent to attempt to utilise them for a proportion of the Stoddards traffic which has significant benefits for the residents adjacent to the Stoddards site in amenity and traffic impact terms. It is recognised that the rural route has uncertainty particularly in relation to the reliance on an as yet undefined Scottish Water timetable and a current lack of approved detail on how access to their site will work. However, there is significant confidence that Scottish Water will undertake these infrastructure works in the near future and full control of the route remains with the Council through the traffic management plans and roads legislation. This will provide for clear and safe methods of working and has amenity benefits for residents in the streets surrounding the Stoddard's redevelopment site.

### **4. RECOMMENDATION**

**4.1 It is recommended that the Committee notes the terms of the supplementary report and that the application be approved subject to the conditions proposed in the report to the Northern Local Planning Committee on 09 September 2011.**

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

29 September 2011  
FV/HM

### **LIST OF BACKGROUND PAPERS**

1. Scottish Water indicative access plan.
2. Planning application 11/0556/PP.

Any person wishing to inspect the above papers please contact David Wilson on (01563) 576779.

## **EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 09 SEPTEMBER 2011**

**10/0955/PP: ERECTION OF 68 DWELLINGHOUSES AND ASSOCIATED WORKS  
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**Report by Head of Planning and Economic Development**

Click for Application Details: <http://eplanning.east-ayrshire.gov.uk/online/caseFile.do?category=application&caseNo=10/0955/PP>

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Planning permission is sought for the construction of 68 dwellings together with the provision of roads, footpaths and associated infrastructure including Sustainable Urban Drainage systems (SUDS) with associated ponds. It is also proposed to raise the levels of a proportion of the site to approximately meet with the height of the existing flood prevention berm. The proposed development layout is largely dictated by various site constraints. The primary constraint is the development exclusion zone surrounding the gasometer but also includes the gas main, the mine shafts and electricity pylons and cabling.

1.2 The proposed residential units are two storeys in height with a mix of terraced, detached and semi-detached properties. The different house types are well mixed throughout the site although the majority of detached houses are located in the centre of the site. Given the site levels at the northern part of the site where it meets with the dwellings of Holmlea Drive, a significant level of underbuild is proposed with decking coming off the ground finished floor level.

1.3 Access to the site is to be taken opposite Blackwood Avenue with a proposed footpath link opposite James Sym Crescent at the historic entrance to the Stoddards site. Areas of landscaping are located throughout the development and a children's play area is also proposed within the site. Site drainage will be accommodated by two separate swale and surface water detention basins located to the south of the dwellings. Also proposed within the site are areas identified as future development plots which currently cannot be constructed due to the presence of overhead electricity cables. Should these be removed in the future, planning applications could be submitted for dwellings at these locations.

1.4 Prior to submitting this application and, as the proposal represents a Major Development in terms of the planning legislation, the applicant undertook a statutory 12 week Pre-Application Consultation (PAC) exercise. This comprised a public exhibition event attended by approximately 150 people and consultation with the community council. The PAC report submitted with the application confirms that

some changes were proposed by the applicant following this process, relating mainly to the number and location of the proposed terraced houses within the application site.

## **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the consent be withheld until the developer contribution under Policy RES29 and the payment proposed towards a scheme of traffic calming is received by the Council.**

## **3. CONCLUSIONS**

3.1 Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to Council because such a decision would not represent a significant departure from the development plan.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to Council because such a decision would not represent a significant departure from the development plan.

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

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

# EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 09 SEPTEMBER 2011

**10/0955/PP: ERECTION OF 68 DWELLINGHOUSES AND ASSOCIATED WORKS  
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**BY CLOWES DEVELOPMENTS (SCOTLAND) LTD**

**Report by Head of Planning and Economic Development**

## **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for consideration an application for planning permission which is to be considered by the Local Planning Committee under the scheme of delegation as the proposals represent a major development in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009.

## **2. APPLICATION DETAILS**

2.1 **Site Description:** The site extends to an area of 8.48 hectares and is located on the site of the former Stoddards carpet factory within the settlement boundary of Kilmarnock.

2.2 To the north the site is bounded by dwellings fronting Holmlea Drive, Mathew Smith Avenue and Barbadoes Road and the site is accessed from this location. To the west the site is bounded by an area of flood plain which is in the ownership of the applicant with the River Irvine and gasometer forming the southern site boundary. To the east of the site are dwellings fronting onto Barbadoes Road and Barbadoes Place.

2.3 In terms of existing land use, the site could be regarded as brownfield given its former industrial use. The site has been cleared with a proportion of the demolition spoil retained on site. The site is bounded to the west by a flood prevention berm/barrier which stretches from the boundary with 8 Holmes Village and runs in a south-south easterly direction before turning and meeting with a flood defence wall. The site surrounds, but does not include, the gasometer and associated yard area located in the southern section of the site. Also located within the application site are a gas main, electricity pylons and cables and two sealed mine shafts.

2.4 **Proposed Development:** Planning permission is sought for the construction of 68 dwellings together with the provision of roads, footpaths and associated infrastructure including Sustainable Urban Drainage systems (SUDS) with associated ponds. It is also proposed to raise the levels of a proportion of the site to approximately meet with the height of the existing flood prevention berm. The proposed development layout is largely dictated by various site constraints. The primary constraint is the development exclusion zone surrounding the gasometer but also includes the gas main, the mine shafts and electricity pylons and cabling.

2.5 The proposed residential units are two storeys in height with a mix of terraced, detached and semi-detached properties. The different house types are well mixed throughout the site although the majority of detached houses are located in the centre of the site. Given the site levels at the northern part of the site where it meets with the dwellings of Holmlea Drive, a significant level of underbuild is proposed with decking coming off the ground finished floor level.

2.6 Access to the site is to be taken opposite Blackwood Avenue with a proposed footpath link opposite James Sym Crescent at the historic entrance to the Stoddards site. Areas of landscaping are located throughout the development and a children's play area is also proposed within the site. Site drainage will be accommodated by two separate swale and surface water detention basins located to the south of the dwellings. Also proposed within the site are areas identified as future development plots which currently cannot be constructed due to the presence of overhead electricity cables. Should these be removed in the future, planning applications could be submitted for dwellings at these locations.

2.7 Prior to submitting this application and, as the proposal represents a Major Development in terms of the planning legislation, the applicant undertook a statutory 12 week Pre-Application Consultation (PAC) exercise. This comprised a public exhibition event attended by approximately 150 people and consultation with the community council. The PAC report submitted with the application confirms that some changes were proposed by the applicant following this process, relating mainly to the number and location of the proposed terraced houses within the application site.

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

3.1 East Ayrshire Council Roads and Transportation Service has no objections to the development and has welcomed the applicants undertaking to work in conjunction with Scottish Water to achieve an infill access route utilising the roundabout on Dundonald Road and a minor road to Holmes Road and thereafter along a Scottish Water private track, under the A71 and along the floodplain and into the site. It is important that the applicant ensures that as much of the infill material as possible is brought onto the site using this access road as failure to do so will result in unacceptable disruption on residential streets. A condition is recommended on any grant of consent to ensure that the developer brings forward further details of the alternative route for infill and construction traffic for agreement with the Roads Network Manager.

**3.1.1 Infill haul traffic route:** The indicative residential street route proposed by the developer would utilise a loop system on the immediate adjoining residential streets for infill haul traffic meaning that one street would be utilised to bring the fill to the site and another utilised for the empty vehicle to leave the site, both of which would connect with the A759 (Dundonald Road). The developer has also investigated the Roads and Transportation Service recommendation and has advised that whilst there are some uncertainties in terms of the longevity of the route, it may be possible to route infill vehicles along this preferred route, away from the residential properties.

The developer has liaised with Scottish Water who have advised them that it is technically feasible to utilise their track and routes which will be subject to upcoming major infrastructure work in connection with the installation of a stormwater transfer

pumping station. Scottish Water has advised the developer that they would be willing to co-operate in this matter depending on the scope of their own upgrade programme which requires that they remove a temporary access track over the floodplain and restore the country lane upon completion of their own works. SEPA has advised the applicant it has no objection to their use of the Scottish Water access track over the flood plain and the applicants own contractor is agreeable to this route.

***The applicant has shown a willingness to accommodate the Roads and Transportation Service's comments by utilising the rural access route and it is clear that there may be scope for a percentage of the infill operation to avoid residential areas. Obviously this is subject to a number of factors including, in particular, the Scottish Water works operating conterminously with the infill operation. It is likely that this route will not be able to be utilised for the whole period of infilling therefore the residential route mentioned above will require to be used. The applicant has advised that the minimum period of time required to upfill the site would be six months equating to 38 vehicle movements in and therefore 38 out. This equates to one vehicle every fifteen minutes. They advise that a period of 12-18 months is a more realistic timeframe equating to one vehicle every 30 to 45 minutes.***

***Such a level of traffic based on a carefully considered construction traffic management plan would minimise disruption to the surrounding residential streets whilst allowing the required upfill to be achieved. When combined with the rural route option that takes the traffic away from residential streets altogether for a period of time, it is an appropriate solution in this case. Conditions should be attached to any grant of consent to ensure that the routes are fully considered by the Roads and Transportation Service for upfill and general construction vehicles. The condition must also make it clear that the rural route takes priority and that an appropriate reporting system is put in place to ensure that adequate warning is provided by the applicant to the Council prior to switching from the rural to the residential route.***

**3.1.2 Transport Assessment: Accessibility:** The proposed access to the site is via a new connection to the existing priority junction at Blackwood Avenue / Matthew Smith Avenue / Holmlea Drive.

The junction priority will remain as existing, with the proposed development and Blackwood Avenue requiring to give way to the traffic flow on Matthew Smith Avenue and Holmlea Drive.

Access to the site requires traffic to utilise the existing network of residential streets. In the past the Roads Service has had complaints from residents in this area regarding speeding and the levels of through traffic. Re-development of the Stoddard's site will attract further traffic through these residential streets which is likely to increase residents' concerns in this regard. Consequently the Roads Service would consider that development of the site would require the implementation of traffic calming measures on the surrounding residential streets to facilitate the introduction of a 20mph speed limit in the area. The developer should therefore fund and implement a traffic calming scheme encompassing the following residential streets: Aird Avenue; Blackwood Avenue; Barbadoes Road; Mathew Smith Avenue, and Scott Road.

To facilitate pedestrian trips to and from the development, a new section of footway along the south side of Mathew Smith Avenue, between Aird Avenue and Blackwood Avenue, should be provided. This footway will require to be designed to provide a minimum width of 2.0m. This section of footway will be required in addition to the proposed footway link indicated on the Halliday Fraser Munro drawing No.E2523L(-- )03 which connects into the existing surface street network at the historic Stoddards site access junction which is at the southernmost end of Aird Avenue.

**3.1.3 Transport Assessment: Traffic and junction analysis:** The following junctions were analysed as part of the Transport Assessment for the development site:

1. Dundonald Road / Aird Avenue / Holmes Road - Priority Junction
2. Dundonald Road / South Hamilton Street / McLelland Drive - Traffic Signal Junction
3. Aird Avenue / Matthew Smith Avenue / Barbadoes Road - Priority Junction
4. McLelland Drive / Barbadoes Road / Howard Park Drive - Priority Junction
5. West Shaw Street / Mill Street - Traffic Signal Junction
6. Glencairn Square - Traffic Signal Junction
7. Proposed Site Access - Priority Junction

All of the above junctions were analysed with the appropriate industry standard computerised modelling software to determine their overall performance and this approach would be considered satisfactory. All of these junctions were found to be within capacity limits to accommodate the development.

**3.1.4 Transport Assessment conclusions:** The proposed development is considered acceptable on traffic and accessibility grounds subject to the agreement of the under noted conditions:

1. The developer should provide a new 2m footway on the south side of Matthew Smith Avenue between Aird Avenue and Blackwood Avenue
2. The developer should provide a footway link from the proposed site connecting into the existing surface street network at the historic Stoddards site access junction.
3. A contribution of £10,000 towards a future comprehensive scheme of traffic calming to be implemented by the Roads and Transportation Service.

***In response to the above it is considered that the developer has shown a footway fronting their site at Mathew Smith Avenue; however a planning condition can be attached to any grant of consent to ensure that an appropriate standard footway is provided to the satisfaction of the Planning Authority and Roads Authority to meet with points 1 and 2.***

***Turning to point 3, the applicant has advised that they are willing to make an upfront payment of £10,000 towards the implementation of a scheme which would be provided prior to the release of the Decision Notice if Members chose to grant planning consent.***

3.2 East Ayrshire Council Environmental Health Service (Contamination Section) has no objection in principle but notes that there could be potential for soil contamination given the previous use on the site. On this basis conditions are

recommended to be attached to any grant of planning consent to ensure that investigations and any identified remedial works are undertaken.

***Appropriate conditions can be attached to any grant of consent to address these matters.***

3.3 The Scottish Environment Protection Agency (SEPA) has no objection to the development but has recommended the attachment of planning conditions to any grant of consent to confirm that appropriate flood management measures are incorporated and that the proposed discharge of surface water to the water environment is in accordance with the principles of the SUDS Manual (C697) published by CIRIA in March 2007.

***Appropriate conditions can be attached to any grant of consent to address these matters.***

3.4 Grange Howard Community Council has objected to the proposal on the following grounds:

3.4.1 The timing of this application and the fact it is timed to be received and considered by our Council during the Christmas holiday. Due to this we have not had sufficient time to properly consider the actual application as against previous consultations.

***The applicant undertook full community consultation prior to the submission of the application and thereafter all details have been available online and to view at Council Offices. On this basis it is not considered that the timing of the submission in any way prejudiced the ability of an interested party to object. Members are advised that the Planning Authority has no control over when applications are submitted but the Planning Authority provides additional consultation time as reasonably necessary to compensate for time lost over recognised holiday periods.***

3.4.2 We object to the noise and loss of amenity that will be suffered by the residents of Blackwood Avenue and Holmlea Drive. Residents will also suffer from increased noise and pollution caused by the increase in traffic.

***The former use of the site as a carpet factory is considered to have been more disruptive and of less amenity value to neighbouring property than a residential scheme. It is acknowledged that a degree of disruption will occur during the upfill and construction works; however this can be mitigated through conditions on traffic management plans, routing the infill traffic outwith the residential area for a period of time as well as controlling construction working times.***

3.4.3 There is only one exit and entrance proposed for potentially 200 cars to enter and leave the new estate. Residents of Holmlea Drive whose houses run alongside this new road, in particular, will suffer from increased noise, pollution and possible loss of privacy. More consideration needs to be given to the free flow of traffic from the estate and the effect that will have on the existing road network.

***The Roads and Transportation Service (RTS) has raised no objection to the use of a single access point for an estate of 68 dwellings and this level of traffic is not considered to adversely affect residents of Holmlea Drive. The RTS acknowledges speeding and through traffic issues (rat running) in the surrounding streets which will be added to by this development. In response to this the developer has advised they are willing to make an ex-gratia payment of £10,000 towards the overall cost of traffic management measures which would be implemented by the Roads Division under its road safety programme at a future date.***

3.4.4 Further explanation is needed of how the traffic exiting Barbadoes Road onto McLelland Drive is to be controlled. Already there is a substantial problem for drivers trying to exit Howard Park Drive due to unrestricted parking at the junction. This development must not take place without proper consideration given to this area. This application may only be the first regarding the site so thought needs to be given to the longer term implications for residents and traffic management.

***The RTS has raised no concerns over the site access and egress position.***

3.4.5 The attraction of Tesco's and the human desire to take the shortest route wherever possible will result in an increase in traffic entering McLelland Drive from Barbadoes Road. This will make it increasingly difficult for drivers to turn onto McLelland Drive from Howard Park Drive. The confusion amongst drivers as to who has the right of way at a junction will be added to by the continue parking on those corners. New parking controls on the McLelland Drive/Howard Park Drive corners must be introduced with proper consideration given to installing traffic lights. This will assist pedestrians cross the road which can be hazardous. At the same time those traffic lights at the end of McLelland Drive should be removed. These serve little practical purpose.

***The RTS has not identified any specific problem with this matter after full consideration of the Transport Assessment.***

3.5 East Ayrshire Council Roads and Transportation Service (Flooding Section) has no objections to the development but has recommended the attachment of a planning condition limiting the discharge from the attenuation be limited to 4.5 litres a second per hectare and that any they are fully consulted on any proposed breaches of the existing flood defences for outfalls .

***Appropriate conditions can be attached to a grant of consent to address these matters.***

3.6 East Ayrshire Council Environmental Health Service has advised that they have no objections to the development but have provided comments on working times, noise, waste, drainage and mineshafts.

***Appropriate conditions can be attached to a grant of consent to address these matters.***

3.7 Scotland Gas Networks has raised no objection to the development.

3.8 Scottish Power has no objection in principle to the development but does note the presence of underground equipment and overhead lines in the vicinity of the development.

***Notes can be attached to any grant of planning consent highlighting this to the developer.***

3.9 East Ayrshire Access Panel North and East Ayrshire Council Outdoor Services have not responded to their consultation at the time of writing this report.

3.10 The Health and Safety Executive has offered no objection to the proposal on safety grounds.

3.11 Scottish Water has indicated that it is in ongoing discussions with the developer regarding the route of a pipe in the application site and is keen to achieve a resolution in this matter. Scottish Water's pipeline route is affected by the site layout of the proposed development and therefore a solution is being developed to accommodate, as far as is reasonably practical, the development proposals provided by the developer.

#### **4. REPRESENTATIONS**

4.1 The application has attracted 20 letters of representation objecting to the proposed development including that of the Grange Howard Community Council noted above. The points of objection can be summarised as follows:

##### **Flooding/drainage**

4.2 We are concerned about raising the ground level another 2 metres at the back as our garden is already almost a metre below the existing level and any heavy rain floods the garden.

***This land raising is required on the basis of flood risk and has been developed by the applicant after full consultation with the Scottish Environment Protection Agency. This takes the development above the 1 in 200 year event flood level required for a residential development. The site boundaries have been designed with swales to intercept water from rear gardens both within the development site and from those outwith the site which will help to alleviate flooding problems and take water away from the gardens.***

4.3 My property is the lowest lying in the area with my garden and cellar regularly flooded. Outside my property Scottish Water has a non return valve prior to the main drainage system. In heavy rain this closes and the drainage and sewage backs up and floods my property and cellar bringing a very bad smell. I am concerned that an additional 68 new properties is only going to make matters worse.

***Drainage of the site has been fully considered by the developer and they will require to achieve the technical approval of Scottish Water to ensure that all foul drainage connections are capable of accommodating this development.***

4.4 My property has subsidence problems and creating the proposed swale to run along the Holmlea Road boundary will create a zone immediately at the bottom of my garden that has the potential to hold a lot of water and therefore will not be very stable and will not help the subsidence. Creating a new, higher level sloping garden at the back of the new houses will also increase the potential amount of rainwater that will drain into this area, compared to that in the present site. If the houses were constructed at the existing ground level then any surface water would not have to run to the boundary to drain, it would just percolate directly down from the garden level.

***The swale drain will not specifically add to subsidence. The swale is designed to collect the water running from the higher parts of the area (the gardens of both existing and proposed dwellings) which is then drained away by the swale meaning that water is actually taken away from the houses.***

4.5 The swale itself will look to all intent and purpose like part of the garden. Who will be responsible for maintaining it – the developer or the individual property owners?

***The maintenance of common areas such as landscaping, the play area and the proposed swale at this site will be factored taking the swale outwith the responsibility of the individual homeowners. Fences will delineate the ownership boundaries to ensure there is no dubiety or encroachment into the swale area, details of which would be required through a planning condition.***

4.6 If the swale is to be separated from the back gardens of both the Holmlea Drive and new housing then it has the potential to be used as an access route into the properties on both sides. This is something that would be identified as a high security risk if assessed using the Secured By Design guidelines published by the police.

***This matter will be addressed through lockable gates being interspersed through the parallel fences of the back gardens which would make free passage along the swale very difficult. Details of this would be required through a planning condition if Members grant consent.***

4.7 We also object to the proposed drain being so close to our property. We were told that if the river flooded the normal drainage arrangements would be closed off and excess water diverted into 2 reservoir areas prepared for this purpose. Our concern is that given the abnormal weather in the world just now and the resultant abnormal flooding in Scotland and the world in general, this failsafe arrangement would be inadequate with devastating results on surrounding properties.

***The swale is required due to the site levels between the existing and proposed houses. As noted by the objector, most water in the site will be treated by the swales and SUDS ponds at the southern parts of the site and water is directed towards here. However, the site levels at the boundary do not allow the water to flow by gravity towards these areas therefore the swale along the boundary is utilised to allow water to be removed from this low part of the site.***

4.8 Since the demolition of the factory water now sits at the bottom of the garden. The applicant could not identify where this water is coming from but advised a swale would be used to drain the water. Where would the swale drain to? There is no indication on any of the plans – surely more investigating of where the water is coming from is needed?

***The applicant has advised that this matter was investigated and the findings were that the water does not originate from within the application site. The swale will drain to the north western part of the site where a valve will allow the water to be taken into the existing flood plain.***

4.9 There is no indication as to who shall be responsible for the swale maintenance.

***See response to 4.5 above.***

4.10 I believe that the existing site is not part of the flood plain being 'behind' the existing flood bund protection and river flood protection. Hence why is there a need to elevate the ground levels at all?

***See response to section 4.2 above.***

4.11 If the ground levels do indeed need to be changed will this have any affect on the long term flood protection in this and the surrounding areas? One worry is that proposed alterations could be moving any area of flooding to another location either up or down stream of the current site.

***The applicant has demonstrated (and SEPA has concurred) that this application site is not part of the established functional flood plain and as such there will be no offset elsewhere during times of flooding.***

4.12 This proposal fails to take into account the fact that the existing homes have a steep downward gradient to the rear of the property – this means that any attempt to raise grounds on the factory site will lead to extensive flooding of the gardens and basements of the surrounding properties as the water will run downhill. As a long standing resident at this address I have first hand experience of this occurring on previous occasions.

***The proposed drainage has been designed to take account of the levels differences between the existing rear gardens, the proposed rear garden levels and the levels of the remainder of the site. This has been considered by the Roads and Transportation Service's Flooding Section and SEPA, neither of whom have raised any objection.***

### **Noise/disturbance**

4.13 We are concerned at the possible levels of vibration that will occur with the incessant impacting of the infill materials (in this respect, the vibration caused by the building of the existing bund was such that my wife was knocked off our downstairs toilet!). There is also concern over the possible damage that this would cause to our property. We must have a guarantee that there will be no damage or displacement from the site to our property.

***Any damage caused to property as a result of the development is a private legal matter between those parties however, the applicant has advised that no sheet piling will be required (which was undertaken to establish the bund) and is a process that can be particularly noisy and create significant vibration.***

4.14 The infilling will take months to complete. It will cause great inconvenience to all the surrounding neighbourhood. Lorries with the necessary materials will be constantly on these roads. The dust, pollution and general contaminants of the imported materials are an obvious health risk to people like us who have asthma and live next to this site. We are very perturbed at the possible detrimental effect on our health of months of constant noise.

***The infilling operation by its very nature will require significant levels of material to be brought to the site. The applicant has investigated the possibility of routing this traffic outwith the residential area and this appears to be achievable. Such practice would use a route to the south of Kilmarnock where vehicles would not require to travel through residential streets. During periods where this is not possible, the use of planning conditions to control working times and vehicle routing in residential areas outwith the site is considered to be an acceptable method of maintaining, to a reasonable degree, the residential amenity of the surrounding area during the construction period.***

4.15 We must have guaranteed limitations on the times that work would be carried out. The normal hours that we have been advised of (Mon-Fri 7am-6pm and Sat 8am-1pm) would deprive us of the amenity of our garden due to noise levels and contaminated dust. This would also prevent us from hanging out washing!

***A standard working time condition is the usual method of maintaining a reasonable degree of residential amenity whilst significant construction works are ongoing in the surrounding area. This allows construction to progress in a timely manner whilst safeguarding residential amenity. If Members grant consent, condition no. 3 proposes that hours of construction, infill and other works take place only between 8am and 6pm Monday to Friday, 8am and 1pm on Saturdays with no such work on Sundays.***

4.16 The development requires a large amount of uplifting of land heights and the bringing on to site of a large amount of landfill material. This will cause significant disruption to the neighbourhood and road network around the site. There is also the obvious health risk to residents associated with dust, pollution and general contaminants of the imported fill materials. I would like detailed assurance that there are no short or long term health risks with such a large earth moving operation taking place directly adjacent to my home.

***The Councils Environmental Health Section, including the Contaminated Land Section, has offered no specific concerns over this matter.***

4.17 I am also concerned about the length of time and method that it will take to complete the infilling. I understand that 9 months to 1 year has been quoted to complete the infilling. This will have a significant negative impact on the neighbouring

residents quality of life for this extensive period. Such large scale earth works ongoing for this extensive period of time particularly with the numerous large trucks carrying tonnes of imported material passing down the streets of a residential area on a daily basis would be a constant nightmare for parents of the many small children who live nearby.

***As advised elsewhere in this report, the applicant has indicated that an alternative route outwith residential areas can be utilised in conjunction with Scottish Water works. This provides an opportunity for at least a proportion of the infill to be undertaken without a requirement to utilise residential streets. Should this route cease to be an option, the applicant has advised that a minimum period of 6 months will be required for infilling operations. This equates to 38 vehicle movements in and the same number out creating one vehicle movement in every 15 minutes. They advise however that a period of 12-18 months is more realistic equating to one vehicle in every 30-45 minutes. This level of inconvenience is not considered to be unreasonable and would be minimised and controlled by a traffic management plan required through a planning condition if consent is granted.***

4.18 The idea that this would continue every day for 1 year (or longer) is in my opinion unacceptable in the extreme. I am also concerned about the noise and vibrations that will be heard or felt on my property as a result of the landfill process particularly the compaction of the material by heavy machinery. I have concerns that the heavy machines working for such a period in close proximity to my house will have a physical effect on my property which may not be immediately noticeable or understood.

***See response to section 4.17 and 4.13 above.***

4.19 It has again been proposed that work will be Monday to Friday from 7am-6pm and Saturday 8am-1pm. This will have a negative impact on my families quality of life for a prolonged period. I have a two year old son who also enjoys a nap in the middle of the day and noise and vibrations will again disrupt his routine.

***See response to section 4.15 above.***

4.20 The provision of footpaths to the side of 44 and 50 Barbadoes Road raises a security issue. Does the applicant intend to fence off these footpaths to a satisfactory level to avoid any breach of the existing owners' boundaries? If there is no boundary, particularly beside 50 Barbadoes Road, this is merely an invitation to local undesirables to congregate on the open space beside existing properties. There have already been issues of anti social behaviour and I personally have had windows broken and missiles thrown at doors/windows previously.

***The footpath adjacent to the boundary is solely for access to the rear of terraced properties within the proposed development which is a standard design feature and is of no greater security risk than the present situation. The specific boundary treatments have yet to be agreed however this would be fully considered through planning conditions although some form of boundary fence provision is likely.***

4.21 What provision will be made for the impact of additional pollution for the existing homeowners? There will be a significant amount of dirt and dust – are the developers going to provide any assistance to a largely elderly community to deal with any clean up operation? There will also be further pollution from the extra traffic on the roads not to mention that from the increased number of properties in the vicinity. As such existing homeowners are suffering loss of amenity.

***See response to section 4.16 above.***

### **Privacy**

4.22 Raising of the ground levels means that new properties would be much higher and therefore invade the privacy of my property.

***The levels of the site will be raised as noted above. Whilst some proposed properties on the boundary will be higher, given the separation distances and the deletion of the proposed decking by planning condition it is considered that an acceptable level of privacy will be maintained.***

4.23 The proposed level of the new housing is much higher than the level of the existing site. No reason has been given for this in the application details available for viewing. The proposed ground level of the house opposite mine will be 3.6m higher than the current ground level i.e. my garden.

***See response to section 4.2 above.***

4.24 The specific plan of the houses to be located opposite both my house and my neighbours at number 29 creates a terrace and steps at the rear. The terraces at these houses are clearly wide enough to accommodate a table and chairs. This creates a platform that will allow a direct view into my entire back garden and that of number 29. One of the other planning officers very kindly offered to discuss my concerns and he explained that the minimum distance between two opposite houses is 18m but that this should be extended if there was height and a potential overlooking issue involved. Having measured the proposed site layout the distance between my house and those proposed to be opposite it is exactly 18m. If the new housing was either moved further away or created at the existing ground level then the overlooking issue would not occur

***The raised decking areas proposed to the rear of these dwellings is considered to adversely affect the privacy of the existing dwellings of Holmlea Drive and as such it is considered that if planning consent is granted they should be deleted from the design to maintain the residential amenity of the existing properties. A suitable planning condition on any grant of consent would address this matter.***

4.25 The future occupants of the dwellings will have a bird's eye view of my rear garden. I would need to build a structure 5-6 metres high in order to have some privacy. Under current planning laws this would be unacceptable.

***It is unclear which planning laws the objector refers to however there is no statutory set minimum distance between properties or on levels of***

**privacy. It is agreed that the decking element is unacceptable and as noted at section 4.24 above, this should be deleted from any consent.**

4.26 Where there is the potential for overlooking, surely a distance of more than 18 metres should be applied?

**18 metres is the distance required through the Councils Design Guidance as a minimum separation distance between properties. The proposal currently achieves this; however the proposed decking would create a permanent overlooking position out of proportion to the minimum separation distance required and on this basis it is considered that the decking should be deleted if planning consent is granted.**

4.27 If as expected a very large height increase is required all of the houses which currently back onto this site would be overlooked by the new houses which would have a serious impact on the privacy and security of my property. I have a tiered garden wall in my garden at the boundary of the new houses and my fear is that the new houses and gardens will now be overlooking my home and garden to the detriment of my privacy, security and enjoyment of my property.

**See responses to 4.22 – 4.26 above.**

4.28 The swales could give rise to security concerns as access to both properties could be obtained.

**See response to section 4.6 above.**

4.29 My property has a full height attic which is available for conversion should we wish to do so. This development is a full floor higher than the current properties therefore this overlooking is excessive and intrusive for existing homeowners.

**With the exception of the decking area it is not considered that an unacceptable level of overlooking will occur. If Members grant planning permission it is recommended that conditions require the deletion of the decking area.**

4.30 The plans appear to show footpath access running parallel to existing boundaries. This presents a security risk to existing properties should these pathways be breached.

**The terraced properties adjacent to the boundary will require accesses to be taken from the rear via a footpath. This is a standard practice with such property and is not expected to be a security risk to existing properties any more so than the current open situation.**

### **Overshadowing**

4.31 The proposed method of development will cause overshadowing.

**It is unclear precisely what the applicant is referring to however the development is not considered to cause undue overshadowing.**

4.32 The development will raise the ground level to above 24 metres above sea level. This translates into an increase of 4 metres over the existing level. Firstly I do not understand why this development has to be raised four metres. The factory and fields flooded infrequently and to no more than 1 metre so raising the level to 4 metres is a bit of overkill. Moreover, since the barriers have been in place the factory has never flooded.

***See response to section 4.2 above.***

4.33 My house is situated on this planet at latitude of 55 deg 35min north and a longitude of 4 deg 30min west. The rear of my house is more or less south southeast facing. The development will raise the ground level 4 metres above sea level first. Then the houses built thereon will be 8 metres high (10m at rear). The houses are not built that far back and will essentially act as one big shadow. The distance from the rear of my house to the highest point of the proposed nearest house is 25.5m. The distance from this point to the garden boundary will be 17.5m. On the shortest day (21 December) the sun will rise to a maximum of 11.1 degrees above the horizon midday. An 8 metre structure will cast a shadow of just over 40 metres long. As such this will completely overshadow my rear garden and will cover to just above the ground floor windows. Using the data I have obtained and a programme found on the internet, I can confirm that from the 23<sup>rd</sup> February until 19<sup>th</sup> October my rear garden will be shadow free. However the shadow from the proposed development will start to encroach on my property. By the 10<sup>th</sup> November the shadow will completely cover my rear garden. This will continue until 2 February. This means that for a period of three months my garden will be more or less in a complete shadow. I consider this totally unacceptable.

***There will be less than a 3m ground level change at the point below ridge level of the proposed dwelling rather than the 4m quoted by the objector as the difference in level. This ground level change is driven by the requirement to ensure that the site remains above the 1 in 200 year flood event as explained at 4.2 above. The revised site plan shows that the distance between the dwellings has increased to approximately 24m therefore the figures quoted by the objector will not be as severe as those quoted. Notwithstanding this however, it is accepted that a degree of overshadowing is likely to occur to the garden of the objectors property however it is not considered that such overshadowing will be in excess of that commonly found in residential situations.***

## **Roads**

4.34 It is likely that most houses will have more than 1 car therefore there will be a huge increase in the amount of traffic on this road. It should be noted that existing homes are showing signs of structural damage as a result of the high volume of traffic currently on this road. Note that Barbadoes Road already has a problem with 'rat running'; this additional traffic will only further escalate the issue which has been compounded by drivers exploiting it as a shortcut to access Tesco store in West Shaw Street.

***The comments of the Roads and Transportation Service agree with this assessment of 'rat running' occurring in the surrounding road network. As requested by the Roads and Transportation Service, a payment of £10,000 has been offered by the applicant as a contribution towards a***

***scheme of traffic calming, to be undertaken by the Service at a point in the future.***

4.35 The means of access to the development further exacerbates both the traffic issue and the related structural damage. The residents have already suffered following the use of heavy vehicles utilising Barbadoes Road as the access road to clear the site.

***The RTS has offered no objection to the development access. A traffic management plan controlling routing and timing of vehicles will minimise disruption to residents although structural damage issues would be a private legal matter for the objector.***

4.36 The proposal will substantially increase the number of vehicles using Blackwood Avenue, Aird Avenue and Barbadoes Road and will add to already congested and dangerous access. Consideration must be given to this and road improvements to this road network or the creation of off road parking areas on these roads should be a condition of approval.

***The RTS has no issues with the access however they do consider that traffic calming to address existing rat running and speeding problems should be undertaken to certain surrounding roads. As requested by the Roads and Transportation Service, a payment of £10,000 has been offered by the applicant as a contribution towards a scheme of traffic calming, to be undertaken by the Roads Service at a point in the future.***

#### **Other matters**

4.37 Work on the replacement for the F/N Route 132kv Transmission Line start March 2011. This being the case it is anticipated that dismantling works for F/N Route will start in October 2011 with a completion date in March 2012. In the interim period this should be treated as a holding objection until such time as the developer contacts Scottish Power Energy Networks to discuss the protection of our plant prior to disconnection and removal from site.

***This holding objection has been superseded by the consultation response received from Scottish Power noted at section 3.8 above.***

4.38 The fence surrounding the property must stay.

***The developer has not indicated that existing boundary fences will be removed; however a planning condition relating to boundary treatment details should be attached to any grant of consent to ensure that full details are provided for the Planning Authority's consideration and approval.***

4.39 Some details on the drawings are incorrect including inaccurate levels on the drawing which give a false impression of how the proposed new houses will affect both my house and those of my immediate neighbours.

***Revised and additional site section details were submitted and there is no clear indication that any significant errors in levels have occurred in the drawings.***

4.40 The borehole plan submitted as part of this application states that it was carried out for FM Developments, the previous owners who made several unsuccessful planning applications for this site. Has this information been checked to establish if anything has changed? I ask this because since the factory has been demolished the ground immediately opposite my house is noticeably more wet, suggesting that either there is a burst water main or that the existing ground is not draining for some reason.

***This document has been considered by the Councils Environmental Health Section which has offered no objection to the details provided.***

4.41 It may not be common knowledge but there is a history of subsidence in Holmlea Drive. My concern is that the proposed detail of the new construction works beside my house could make the subsidence problems worse, specifically the construction of the proposed swale drainage. There has already been damage to the boundary wall caused by the demolition works which may have contributed to my current subsidence problems.

***Given the history of mine workings in the surrounding area it is unsurprising that a degree of subsidence occurs; however as part of the works the developer will have to further investigate mine workings and may have to undertake grouting works which will help to stabilise the surrounding ground. Such matters would be addressed as part of the future Building Warrant process.***

4.42 In reading the application form I notice that the applicant has confirmed that there are no existing trees on the site. According to the topographic plan there are fourteen trees, which may provide habitat for many different wildlife species. The site itself, even with the factory having been demolished, may be home to many types of wildlife. Has a survey been carried out on this site? There is no mention of this in the application form or on the documents available for public viewing. I ask this because I have recently seen a heron outside my garden amid the demolition rubble, which I think is quite special. The development proposals do seem to provide a good range of habitats but they should also take into account how they can retain any existing biodiversity.

***No survey has been carried out as there are no wildlife designations for this site or the surrounding area. Given that the vast majority of this site is hardstanding and rubble, little wildlife is likely to exist. The development does however propose substantial areas of open space, restoration of existing hard standing, SUDS pond and trees which will potentially add quality wildlife opportunities and biodiversity to the site.***

4.43 I am astonished to see that the identified mine shaft at the very rear of my property has been allocated as a building plot albeit the entire garden area. Surely for health and safety reasons this plot should be designed as a green space with no building works over or next to it. These should be identified as green spaces for safety reasons.

***The developer has investigated the presence of mine shafts and will do further work to investigate and remediate these through grouting etc.***

***They will require to liaise with the Coal Authority on these matters to ensure that appropriate health and safety measures are maintained.***

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

5.1 For the purposes of this application the development plan comprises the Adopted East Ayrshire Local Plan (2010).

### East Ayrshire Local Plan

5.2 Policy SD7 relates to the development of brownfield land and states:

*“The Council will, subject to compliance with all other appropriate local plan policies, positively encourage the re-use and redevelopment of brownfield land, both in the area settlements and in countryside areas, in preference to the development of greenfield sites. The release of all greenfield land for development, with the exception of those greenfield sites already identified for specific development purposes in the local plan, 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 proposed development site is located on the former Stoddard carpet factory which has now been demolished. On this basis it is considered that the principle of the development is acceptable.***

5.3 Policy RES3 relates to new housing within settlement boundaries and states:

*“Within settlement boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Such proposals will be particularly supported where the development:*

- (i) has no adverse impact on the surrounding natural and built environment and adjacent uses;*
- (ii) has no unacceptable transportation and infrastructure implications;*
- (iii) is compatible with surrounding densities and housing types; and*
- (iv) is in full compliance with the Council’s approved Design Guidance.*

*Developments that do not meet all of these criteria will not receive Council support”*

***The proposed development bounds onto existing dwellings and occupies the former carpet factory site. The ground to accommodate the dwellings requires to be built up with dwellings located on top of this build up. Whilst the proposed dwellings that adjoin the existing dwellings will partly overlook and overshadow some gardens, this is not considered to be of a significant adverse impact. The dwelling types, design and densities are considered to be reasonable and are not out of character with the surrounding area.***

5.4 Policy RES22 relates to residential amenity. The key criteria of this policy that are pertinent to this case are (v) and (vi) which state:

*The Council will, at all times, seek to protect, preserve and enhance the residential character and amenity of existing residential areas. In this regard, there will be a general presumption against:*

- (v) any development which, by reason of its size, scale, design or material finish, is out of keeping with and detrimental to the character and appearance of the residential area concerned;*
- (vi) any development which, by reason of its size, scale, location or material finish would be unacceptably visually intrusive or which would adversely impact on the amenity or privacy of neighbouring properties.*

***The proposed development, being of 68 residential dwellings, is commensurate with the surrounding land use and is of a general character and appearance that reflects the surrounding area and the particular constraints of this site. Objectors have raised concerns over amenity and privacy at those points where it adjoins residential property. In response to this it is recommended to Members that these areas of decking off the rear of these dwellings be deleted as these could lead to a privacy impact. In terms of house windows and dwelling heights, it is considered that the separation distances are reasonable and will not unduly adversely impact on these existing properties.***

5.5 Policy RES23 relates to public open space provision within new development sites and states:

*“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 ensure that the location of all such areas is addressed as a primary consideration in the preparation of any housing layout design. All open space, and particularly those areas of open space containing play equipment, should be located in accessible positions which are centrally located within the housing layout and open to public view. The provision of public open space in peripheral, backland locations will not be considered acceptable.*

*Developers are also required to ensure that the design of all open space is to the highest possible standards and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. In preparing their proposals, developers should have regard to the interim guidelines in Schedule 4. The precise type, size, location and design of the open space will, however, be dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area. Prospective developers are advised to consult fully with the Council’s Head of Leisure Services in this regard, prior to formulating their development proposals.”*

***The developer has provided areas of public open space which meets with the requirements of this policy. The areas are located throughout the site and also include an area identified as a play area, the details of which would be addressed through planning condition to any grant of consent. Furthermore, large areas of ground to the south beyond the***

**build up area will be available for informal access as will the floodplain area to the west of the site which is in the ownership of the applicant.**

5.6 Policy RES24 relates to public open space provision and states:

*“In formulating their development proposals, developers should ensure that:*

*(i) areas of open space are of a size and configuration that is easily maintainable. Larger areas of well-located, consolidated open space should be provided in preference to a series of smaller, individual areas scattered throughout the proposed development site;*

*(ii) proposed areas of open space link, wherever possible, with other areas of adjacent existing open space;*

*(iii) the proposed areas of open space are safe and secure, overlooked if possible by adjacent properties;*

*(iv) play areas, kick about areas and games pitches are provided as required by the Council’s Head of Leisure Services;*

*v) play equipment and facilities for the disabled and those with special needs are provided as considered appropriate;*

*(vi) areas of open space are attractively planted and, where appropriate, use plant species to encourage wildlife; and*

*vii) all open spaces are provided, as appropriate, with footpaths for both access and leisure walking, linking with adjacent open spaces wherever possible.”*

***It is considered that the developer has struck a good balance on the size and position of open space provision throughout the site. These areas are all overlooked from houses within the site or from estate or public roads. The developer has also advised that informal access to the floodplain and other areas within the site can be achieved for informal leisure use, such as walking of dogs etc.***

5.7 Policy RES26 relates to residential private open space provision and states:

*“All developers of new housing developments should have regard to the private open space guidelines in Schedule 5. These may be relaxed where the Council is satisfied that relaxation is justified.”*

***The dwellings within the site meet with or exceed the minimum standard of private open space as advised by Schedule 5.***

5.8 Policy RES29 relates to developer contributions and states:

*“Where a development of 4 or more houses, either on its own, or in association with existing developments, will place additional demands on community facilities or infrastructure that would necessitate new facilities or exacerbate deficiencies in existing provision, the council will require the developer to meet or contribute to the cost of providing or improving such infrastructure or facilities. Contributions will relate*

to the development concerned, including in nature, scale and kind. Where these cannot be secured by planning conditions or other appropriate means, the council will expect developers to complete a section 75 or other legal agreement. Contributions sought under this policy will be waived or reduced only in exceptional circumstances – for example, where a developer demonstrates that a development would have exceptional development costs, would bring particular economic, social or other benefits, or is ‘enabling development’ as defined in the plan.”

**The developer contribution required under the provision of this policy is calculated as follows:**

**Core area £198 x 68 dwellings = £13,464**

**Admin fee £60 x 68 dwellings = £4,080**

**Total payment of £17,544**

**The applicant has confirmed that they are willing to make an upfront payment to meet with this total, prior to the release of the planning consent.**

5.9 Policy ENV 9 relates to the Councils Design Guidance and requires that developers comply with this guidance where it relates to the particular type of development proposed.

**The proposal is most relevant to Design Guide 2: New Residential Development. On the basis of the design and layout of the site and that of the individual houses it is considered that the proposal meets with this guidance and therefore policy ENV 9.**

5.10 Policy ENV 11 townscape and design and states:

*The Council will require developers, in formulating their development proposals, to ensure that:*

- (i) adequate opportunities are taken to secure a more accessible environment for all, including those with mobility and sensory impairments, elderly people and those with young children;*
- (ii) appropriate traffic safety measures are introduced to minimise vehicular and pedestrian conflict;*
- (iii) appropriate community safety measures are incorporated to maximise security and improve natural surveillance of the development;*
- (iv) the design of their developments demonstrates a commitment to sustainable development through the use of recyclable and renewable materials;*
- (v) the principles of energy efficiency are applied within the layout and design of all new development proposals and that on-site renewable energy sources and equipment are utilised, wherever possible and feasible, to reduce annual CO2 emissions from the developments concerned that may normally be expected, by a minimum 15%.*

- (vi) *their designs are sensitive to the character of the area in which they are proposed;*
- (vii) *their developments are landscaped to reflect and compliment their surroundings; and*
- (viii) *proposed areas of open space are integrated wherever possible with existing areas to form a linked network throughout the area.*

*The Council will generally be supportive of sensitive and architecturally innovative designs for new developments where these can be demonstrated to blend in with existing surrounding development and with the landscape setting of the area in which they are proposed.*

***The internal layout has been fully considered by the Roads and Transportation Service and meets with its requirements. Specific details of materials and energy efficiency are not provided however a high standard of energy efficiency will be required through the building warrant process. The specific designs of the dwellings and the open space provision are considered to be of good standard and reflect the character of the surrounding area.***

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

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

### Consultation Responses

6.2 The key consultation response in this instance is that of the Roads and Transportation Service. The internal site layout and the site access are considered to be acceptable however they have recommended that the rural route for the infill traffic is utilised and that a payment of £10,000 be made towards a future scheme of traffic calming for the surrounding road network. The traffic routing element has been recommended to be routed to the site using rural roads, a Scottish Water private track and thereafter the flood plain. As noted at section 3, the applicant has confirmed that there is reasonable prospect of this route being utilised in connection with future Scottish Water works. Whilst this route may not always be available given the reliance of timings with Scottish Water works, it does provide an alternative route to minimise disruption to residential property. If this alternative cannot be operated for a certain period(s), a carefully controlled traffic management plan that sets out routes through the residential areas and times where such movements are acceptable would be an acceptable solution to this issue. In terms of the traffic calming elements/20mph zone, the Roads and Transportation Service recommends a scheme that encompasses five roads outwith the application site. Given that the proposal will exacerbate the level of traffic on the surrounding road network the RTS would expect a contribution of £10,000 towards a future scheme to be implemented by the Roads and Transportation Service. The applicant has indicated a willingness to make an upfront payment on this issue. With the exception of the Grange Howard Community Council which has submitted a representation which is considered at 6.3

below, no other significant matters have been raised by the consultees. It is further noted in terms of flooding and drainage that neither the Council's Flooding Section nor SEPA have raised any objections.

### Representations

6.3 The representations cover various matters including privacy, roads, overshadowing, noise/disturbance and drainage. All of these matters have been carefully assessed within this report and it is considered that the points of objection are not of sufficient weight to justify refusal of the application although some minor changes should be undertaken to protect privacy, particularly the deletion of the areas of decking adjacent to houses on the boundary with Holmlea Drive.

### Planning History

6.4 The application site has been subject to various applications in recent years, the pertinent ones being:

- (i) 08/0242/FL for the erection of 199 residential units with associated landscaping open space access arrangements flood defence works and associated engineering and land forming works including demolition and tree felling was withdrawn on 26 June 2009;
- (ii) 07/0552/FL for the erection of 198 residential units with associated landscaping, open space, access and flood defence works was withdrawn on 2 September 2009. This application had been considered by the Northern Local Planning Committee at its meeting on 17 August 2007 and had been granted planning permission subject to conditions and to a legal agreement. This Agreement however was not concluded and the application was subsequently withdrawn; and
- (iii) 06/0686/FL for the erection of 199 residential units with associated landscaping, open space, access arrangements and flood defence works was refused by the then Central Local Planning Committee on 7 February 2007.

### Impact on the amenity of the area

6.5 Given that the proposal is for residential development within an existing residential area the use itself is considered to be commensurate with the surrounding area. The redevelopment of this site will have significant benefits and will return a prominent brownfield site to use. The careful design and layout and house type choices throughout the site will help to minimise any adverse impact to neighbouring properties to acceptable levels despite the difficulties due to the site level requirements.

### Planning Supporting Statement

6.6 The applicant has submitted a supporting statement which provides details of the relevant policy guidance and why the applicant believes that this proposal meets with all of the requirements set out within. Furthermore, comment is provided on the design of the site, the traffic implications and the regeneration potential of this proposal.

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

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

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated in Section 6 above, there are material considerations relevant to this application. The comments of the Roads and Transportation Service have been addressed by the applicant who has indicated a willingness to make a contribution as requested by the Roads Division towards a future traffic calming scheme. An alternative, less disruptive, traffic route is also achievable which meets with the requirements of the Roads Division. The proposal has attracted a degree of representation however the points of objection alone are not of sufficient weight to justify refusal of the application although the points raised with regard to privacy from the decking are considered to be reasonable and as such these areas should be deleted by planning condition if consent is granted.

8.3 Turning to the impact on the amenity of the area, significant weight should be attached to the redevelopment of this former industrial site which restores a brownfield site to a viable use commensurate with the surrounding area. This scheme is significantly smaller than previous proposals on this area and is considered to be more carefully considered and better designed than previous proposals within this general area.

8.4 In summary, the benefits of restoring the application site to a viable use should not be underestimated and the applicant has successfully addressed the points raised by the Roads and Transportation Service in relation to the surrounding road network and infill traffic routing. The points of the objectors are largely addressed through further submitted information, by use of appropriate planning conditions or are considered to be overstated in the first instance.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the consent be withheld until the developer contribution under Policy RES29 and the payment proposed towards a scheme of traffic calming is received by the Council.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application would not require to be referred to Council because such a decision would not represent a significant departure from the development plan.

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

DW/HM/DW  
29 August 2011

### **LIST OF BACKGROUND PAPERS**

1. Application Form, Plans and technical reports.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of representation
5. Adopted East Ayrshire Local Plan (2010)
6. Applicant's Supporting Statement
7. Pre application consultation report (PAC Report)
8. Planning application 08/0242/FL
9. Planning application 07/0552/FL
10. Planning application 06/0686/FL

Any person wishing to inspect the background papers listed above should contact Mr David Wilson on 01563 576779.

**Implementation Officer: Hugh Melvin**

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 10/0955/PP

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Location	Former Stoddard Carpet Factory Barbadoes Road Kilmarnock East Ayrshire
Nature of Proposal:	Erection of 68 dwellinghouses and associated works
Name and Address of Applicant:	Clowes Developments (Scotland) Ltd C/o Agent
Name and Address of Agent	Halliday Fraser Munro 12 Stanhope House Stanhope Place Edinburgh EH12 5HH

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Officer's Ref: David Wilson  
01563 576779

The above application for PLANNING PERMISSION should be granted subject to the following conditions:

1. Prior to the commencement of any development on site, a Construction Traffic Management Plan to address vehicle routing, timings and signing of the route for all infill material traffic and construction vehicles visiting the site shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads and Transportation Service and shall be implemented as approved thereafter during all infilling, construction and other site works.

Reason: To minimise disruption to the surrounding residential streets and thereby maintain residential amenity and in the interests of road safety.

2. The Construction Traffic Management Plan to be submitted for approval under Condition 1 above shall provide details of a route for all infill traffic that utilises the rural road between the roundabout on Dundonald Road and Holmes Road and thereafter utilises the Scottish Water private access track and floodplain to access the site as well as an alternative route utilising the immediate surrounding residential streets. Furthermore, details of how the Planning Authority will be notified of any switch in routing between both routes will be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads and Transportation Service prior to the commencement of development on site and shall be implemented as approved thereafter during all infilling and construction works.

Reason: For the avoidance of doubt, to minimise disruption to residential streets and to ensure that appropriate road safety measures are in place no matter what route infill traffic utilises.

3. No construction work, site infilling or other works shall take place before 08:00 hours and after 18:00 hours on Mondays to Fridays and before 08:00 hours and after 13:00 hours on Saturdays. No such works shall be undertaken at any time on Sundays.

Reason: In the interests of maintaining, to a reasonable degree, the residential amenity of the area during all works.

4. Notwithstanding the approved plans and details hereby approved, the raised decking areas proposed at the rear of the dwellings on the northern site boundary with Holmlea Drive are not approved. The decking areas shall be deleted and a revised means of access from ground level to the finished floor level of the dwellings shall be submitted for the written approval of the Planning Authority prior to the commencement of development and shall thereafter be implemented on site as approved prior to the occupation of each individual dwelling.

Reason: To prevent unacceptable levels of overlooking into the rear of properties on Holmlea Drive in the interest of maintaining acceptable levels of privacy to these properties.

5. Details of the proposed play area including all equipment, boundary treatments and gates and surface finish shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development and shall thereafter be implemented on site as approved thereafter prior to the occupation of the final dwelling on site.

Reason: To ensure that the play area details are commensurate with the development in the interest of residential amenity.

6. Notwithstanding the approved plans, a final landscaping scheme detailing the location, number and type of trees, shrub and plant species shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. The landscaping scheme shall be completed as approved prior to the occupation of the final dwellinghouse or at the next available planting season thereafter, whichever is the sooner. Any trees or shrubs removed without the consent of the Planning Authority or seriously damaged at any time thereafter shall be replaced by trees or shrubs of similar size or species.

Reason: In order to achieve a quality landscaping scheme in the interests of visual amenity.

7. Details of the maintenance and/or factoring arrangements including frequency of visits and responsibilities on site for the site landscaping, swales and detention basins shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development. The details as approved shall be undertaken on site within a timescale to be agreed in writing with the Planning Authority and shall thereafter be implemented and maintained on site as approved.

Reason: To ensure that the landscaping and drainage arrangements are properly maintained in the interests of visual and residential amenity.

8. Notwithstanding the plans hereby approved, details of the height, materials and colour of all boundary treatments including retaining walls and gates and the swale

along the boundary of the site with Holmlea Drive shall be submitted to and approved by the Planning Authority in writing prior to the commencement of development and shall be constructed in accordance with such details thereafter and be completed prior to the occupation of the last dwellinghouse.

Reason: In the interests of visual and residential amenity and to maintain the character and setting of the area.

9. Notwithstanding the submitted plans and details hereby approved, details/samples of all external materials including driveway surfaces shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site and shall thereafter be implemented on site as approved.

Reason: In the interests of maintaining and improving the visual amenity of the area.

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

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

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

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

11. If the report is approved under condition 10 above, prior to any further site development/works, the developer shall submit a further report, confirming that the remedial work (if undertaken) has been carried out in accordance with the remediation plan.

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

12. Prior to the commencement of development, the applicant shall submit a drawing to demonstrate that appropriate flood management measures are adopted within the site for the written approval of the Planning Authority in consultation with the Scottish Environment Protection Agency.

Reason: To ensure that flood management has been properly addressed and to meet with SEPA's consultation response.

13. The proposed discharge of surface water to the water environment shall be in accordance with the principles of the SUDS Manual (C697), published by CIRIA in March 2007.

Reason: To ensure that surface water discharge is appropriate and to meet with SEPA's consultation response.

14. The discharge from the attenuation shall be limited to 4.5 litres per second per hectare for the site.

Reason: To ensure that surface water discharge from the site is within acceptable parameters.

15. Any proposed breaches in the flood defence walls for outfalls or other purposes shall be advised to the Planning Authority and the Council's Roads and Transportation Service a minimum of 14 days before any breach is to be created.

Reason: To ensure that any such breaches do not compromise the integrity of the existing flood defences.

16. Notwithstanding the plans hereby approved, a 2 metre wide footway shall be provided on the south side of Matthew Smith Avenue between Aird Avenue and Blackwood Avenue and furthermore the footpath shall be extended to meet with the 'proposed footpath link' detailed on approved drawing E2523 L(--03 Rev M which connects the site with the public road and the footpath fronting Barbadoes Road.

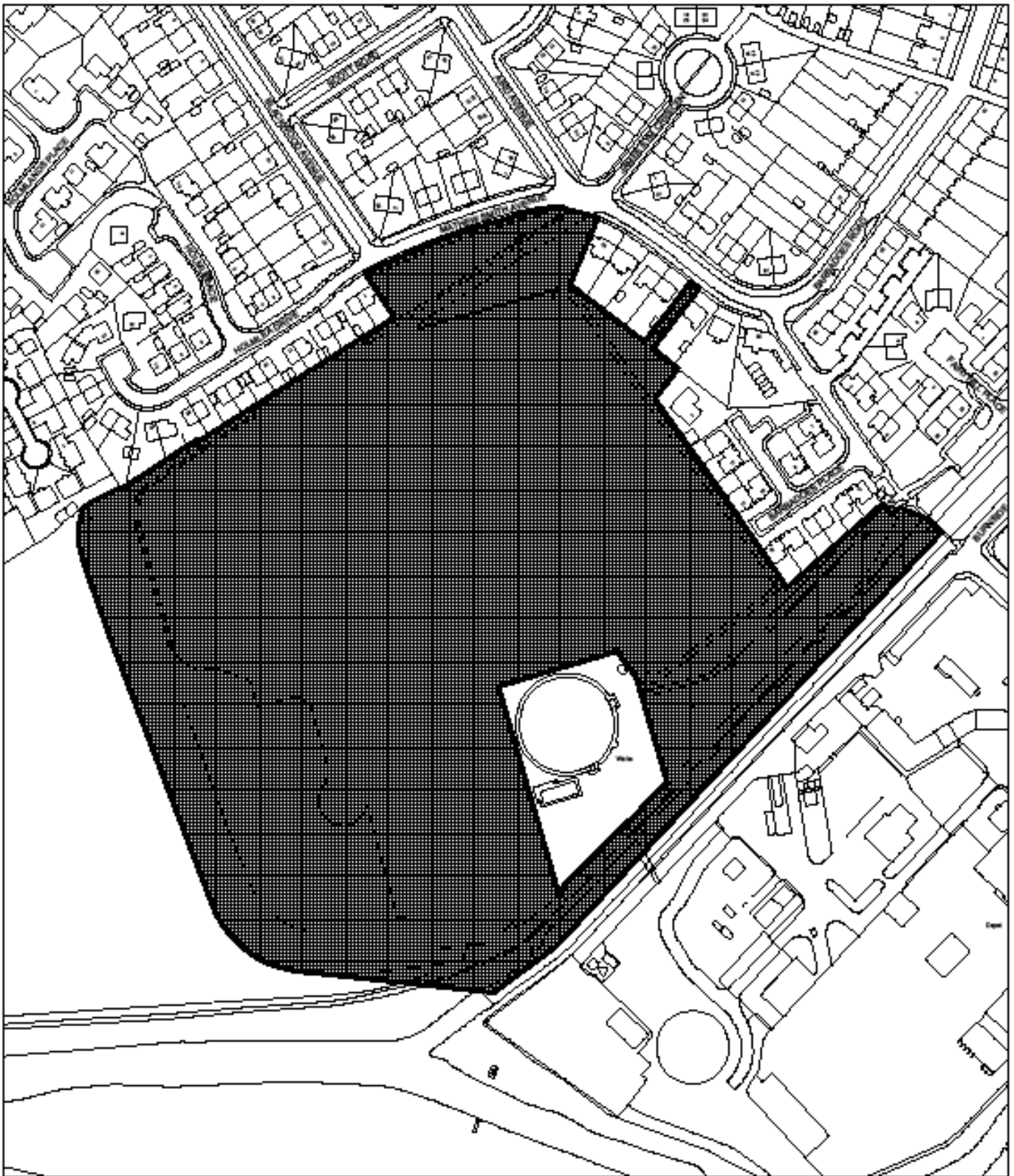
Reason: To ensure that an appropriate standard footpath connection fronts the site and links into the existing footpath and road network in the interests of pedestrian and road safety.



### **Notes to Applicant**

1. All waste arising from the works shall be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.
2. The developer is recommended to make early contact with the Coal Authority to discuss the presence of the two mineshafts on site.
3. The developer is advised to make early contact with Scottish Power with regard to the presence of overhead cables through the site. The developer should also have regard to the advice given in the Health and Safety Executive booklet HS (G) 47 - "Avoiding Danger from Underground Services", and their guidance note GS6 - "Avoidance of Danger from Overhead Lines".
4. The developer is advised to make early contact with Scotland Gas Networks with regard to the presence of gas pipelines and equipment within the site.
5. East Ayrshire Councils' Guidance document "An Introduction to Land Contamination and Development Management" is available to download at: <http://www.east-ayrshire.gov.uk/devser/planandbuild/dpguidance.asp>

### **Reason for the Decision**

The proposal is compliant with the Development Plan and after careful consideration of representations, consultations responses and other relevant material considerations it is considered that the material considerations do not, on balance, indicate that the application should be refused contrary to the Development Plan.



<p>Title/Location    <b>Barbadoes Road</b> <b>Kilmarnock</b> <b>Application No. 10/0955/PP</b></p>	<p><b>East Ayrshire Council</b> Department of Neighbourhood Services Planning &amp; Economic Development Service The Johnnie Walker Bond 15 Strand Street Kilmarnock KA1 1HU Tel: (01563) 576790    Fax: (01563) 554592 E-Mail : <a href="mailto:Planning@east-ayrshire.gov.uk">Planning@east-ayrshire.gov.uk</a> Com Date: 15/06/2011</p> 
<p>Key</p>  <p><b>Application Site</b></p>	

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