

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 17 SEPTEMBER 2009

**08/0042/FL: ERECTION OF 81 DWELLINGS AND 24 FLATTED DWELLINGS
AND ASSOCIATED ACCESS AND LANDSCAPING**

**AT WESTERN ROAD/SOUTHHOOK ROAD, KILMARNOCK
BY BELLWAY HOMES LTD SCOTLAND WEST**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for this site with regard to the erection of 105 dwellings (81 houses and 24 flatted dwellings). Details have been lodged in relation to:-

- Layout of the site;
- Size, height, design and external appearance of the dwellings;
- Drainage and sewage disposal;
- Open space provision and maintenance thereof;
- Car parking;
- Boundary walls or fences to be erected;
- Landscaping of the site and maintenance thereof;
- Existing and finished site levels; and
- Details of a Sustainable Urban Drainage Scheme (SUDS).

1.2 Planning consent is therefore sought for these detailed provisions at the former Blackwood Brothers factory on Western Road, Kilmarnock. The outline consent was granted by the then Development Services Committee, on 13 December 2005, subject to the details of siting, design, external appearance, open space, landscaping, parking, etc being reserved. This application is now for full planning permission as the proposed scheme does not reserve a strip of land for industrial use as detailed in Section 2.5 of this report. The applicant carried out neighbour notification again to account for these subsequent changes and objectors were also re-notified to advise their objections are still being considered under this full planning application.

1.3 The small strip of land that was reserved previously under the outline application for industrial units, is not considered to be of any strategic importance and is small enough not to be of any significance to local industrial land supply. Committee consideration and approval has already been given to use of the vast majority of the site for residential purposes under the outline application. This

strip of land is now proposed as a landscaping bund and SUDS pond. This will allow for a more pleasant aspect to the west of the housing proposed on site, and will create a quality buffer zone next to the existing industrial uses on Southhook Road which are adjacent to the application site. Access for the housing development is proposed from Western Road. The site is subject to a Section 75 Legal Agreement relative to the previous outline consent 05/0299/OL, which is addressed further in paragraph 7.2.

1.4 An extensive landscaping schedule is proposed throughout the application site, with native hedgerows and a mix of native and non native trees, to provide a variety and mix of species to the site. Existing trees along Southhook Road will be retained along the south boundary of the site and incorporated into the garden grounds of relevant plots. The proposed SUDS scheme incorporates a detention pond at the south-western corner of the site which allows for a change in water levels to take flood or storm waters when required. These would subsequently filter down into the system to drain to a shallow level. Planting of reeds and other aquatic species allows for a soft barrier around the pond, as well as encouraging bio-diversity for local wildlife.

1.5 A reduction in the number of dwellings proposed from 111 units to 105, was achieved through detailed discussions with the applicants, in order to accommodate comments made by the Council's Roads and Transportation Division on roads geometry and layout. These changes have been reflected in the amended plans.

2. RECOMMENDATION

2.1 It is recommended that this application for full planning consent be approved subject to the conditions listed on the attached sheet, but that the decision notice not be issued until the Solicitor to the Council has concluded with the applicants an amendment to the terms of the extant agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 in accordance with paragraph 7.2 of this report.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is contrary to industrial provisions the Development Plan.

3.2 As indicated in Sections 5 and 6 of the report, however this site already benefits from a Council decision to grant outline permission for residential use and the associated road works have already been undertaken, widening the Western Road carriageway at the traffic lights at Bonnyton Road/Munro Avenue.

3.3 As indicated in Section 6 there are material considerations relevant to this application, including the earlier grant of Outline Consent. Two objections have been received from the statutory consultation and neighbour notification process and these whilst noted, are not considered to warrant refusal of this application. It is noted that the remaining consultation responses do not suggest that the application should be refused.

3.4 In this instance, it is considered that the material considerations are not such as to indicate that the proposal would be unacceptable. Detailed discussions have been held with the applicants' and a revised and significantly improved design layout has been achieved. It is therefore considered that this application should be approved, subject to conditions.

Alan Neish
Head of Planning and Economic Development

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

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BY BELLWAY HOMES LTD SCOTLAND WEST**

Report by Head of Planning and Economic Development

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application for planning permission, to be considered by the Northern Local Planning Committee under the current scheme of delegation as it represents major development: i.e. more than 50 dwellings.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located to the west of Western Road, and to the north of Southhook Road, Bonnyton, Kilmarnock. The area is dominated by housing to the east and south, although there is an industrial estate immediately to the south of the site on the southern side of Southhook Road, with uses such as storage and distribution, plant hire and a car wash amongst other general industrial uses. To the north lies a dismantled railway, which is now a dedicated cycle track, and north of that, is the main Glasgow – Kilmarnock railway line, with East Ayrshire's Western Road depot to the north of the operational rail line. To the west of the site lies an independent Waste Transfer Station. To the east of the application site is the B Listed Southhook Potteries Building, which was the subject of a full planning application and a Listed Building application for residential development in conjunction with the outline consent as detailed in Section 6 of this report. Works have not yet started to convert this Art Deco building and it is vacant and lies outwith the current application site. The grounds of the application site formerly comprised the Blackwood Brothers Factory and now consist of hardstanding/overgrown grassed areas, with a Sales Cabin. This was erected without planning consent, although application has been received but as yet is undetermined. There is Herras-style fencing round the frontage of the application site.

2.2 The site extends to approximately 3 hectares. Access for the housing development is proposed from Western Road. A substation that is currently on site is to be retained. There is one difference in this application from that as approved in the outline application, as detailed in paragraph 2.4 and Section 6 of this report. A strip of land to the west of the site which was proposed to be retained for industrial use under the previous outline application, is now proposed as a landscaping bund, with an attenuation pond as part of the Sustainable Urban Drainage Scheme (SUDS), and some rear garden ground for those dwellings backing onto the adjacent waste transfer station. This poses no issues in terms of the overall land use planning of the area as discussed later in this report.

2.3 **Proposed Development:** Full planning consent is sought for this site with regard to the erection of 105 dwellings (81 houses and 24 flatted dwellings). Details have been lodged in relation to:-

- Layout of the site;
- Size, height, design and external appearance of the dwellings;
- Drainage and sewage disposal;
- Open space provision and maintenance thereof;
- Car parking;
- Boundary walls or fences to be erected;
- Landscaping of the site and maintenance thereof;
- Existing and finished site levels; and
- Details of a Sustainable Urban Drainage Scheme (SUDS).

2.4 Planning consent is therefore sought for these detailed provisions at the former Blackwood Brothers factory on Western Road, Kilmarnock. The outline consent was granted by the then Development Services Committee, on 13 December 2005, subject to the details of siting, design, external appearance, open space, landscaping, parking, etc being reserved. This application is now for full planning permission as the proposed scheme does not reserve a strip of land for industrial use as detailed in Section 2.5 of this report. The applicant carried out neighbour notification again to account for these subsequent changes and objectors were also re-notified to advise their objections are still being considered under this full planning application.

2.5 The small strip of land that was reserved previously under the outline application for industrial units, is not considered to be of any strategic importance and is small enough not to be of any significance to local industrial land supply. Committee consideration and approval has already been given to use of the vast majority of the site for residential purposes under the outline application. This strip of land is now proposed as a landscaping bund and SUDS pond. This will allow for a more pleasant aspect to the west of the housing proposed on site, and will create a quality buffer zone next to the existing industrial uses on Southhook Road which are adjacent to the application site. Access for the housing

development is proposed from Western Road. The site is subject to a Section 75 Legal Agreement relative to the previous outline consent 05/0299/OL, which is addressed further in paragraph 7.2.

2.6 An extensive landscaping schedule is proposed throughout the application site, with native hedgerows and a mix of native and non native trees, to provide a variety and mix of species to the site. Existing trees along Southhook Road will be retained along the south boundary of the site and incorporated into the garden grounds of relevant plots. The proposed SUDS scheme incorporates a detention pond at the south-western corner of the site which allows for a change in water levels to take flood or storm waters when required. These would subsequently filter down into the system to drain to a shallow level. Planting of reeds and other aquatic species allows for a soft barrier around the pond, as well as encouraging bio-diversity for local wildlife.

2.7 A reduction in the number of dwellings proposed from 111 units to 105, was achieved through detailed discussions with the applicants, in order to accommodate comments made by the Council's Roads and Transportation Division on roads geometry and layout. These changes have been reflected in the amended plans.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Sustrans, the national agency for sustainable transport and travel, have noted that they/ Railways Paths Ltd are an adjacent landowner with regard to the immediate north of the site. Former railway land in this vicinity is host to part of the National Cycle Network (Route 73) which is maintained in conjunction with East Ayrshire Council. National Route 73 is part of the wider network of paths around the country, assisting with managed access for walkers and cyclists through the provision of these series of high quality, traffic free paths. Sustrans have therefore suggested that the site should incorporate a quality access to route 73 through a link at the northwest corner of the site and also at Southhook Road.

An engineering solution providing a link to Route 73 at the north west part of the site has been thoroughly investigated by the applicant, however, due to varying ground levels, it would be very difficult to achieve the required gradient for such a route if access is taken from this point. Extensive upfilling would be required on land that the applicant does not own. It has however been agreed with the applicant that if Members choose to grant consent, a planning condition can be imposed requiring the applicant, to ensure the footpath link to the north east of the site is connected to Route 73 to ensure walkers and cyclists can gain access to the National Cycle Network.

3.2 East Ayrshire Council's Environmental Health Division: given the substantial contamination of the site, with its former industrial uses, contamination was given careful consideration under the application for outline planning consent. Environmental Health Division advised that the site had a protracted history of contamination (previous to Blackwood Brothers being on the site, it was used by Bonnyton Fireclay Works, with associated railway sidings and slag heaps.) As a consequence, comprehensive site investigations were undertaken with a remedial works programme, to the satisfaction of the Environmental Health Division. Additional Chemical Risk Assessment was carried out, as was a study on the consolidation of abandoned mineshafts within the site. All ground works require to be undertaken in accordance with appropriate legislative requirements and guidelines to avoid nuisance and to ensure that all waste from the site is handled and disposed of satisfactorily.

All contaminated land issues have been solved to the satisfaction of the Council's Environmental Health Division. Additional matters concerning ground works will be dealt with under any application for a Building Warrant. Otherwise appropriately worded planning conditions can be incorporated into any consent that Members might choose to grant.

3.3 East Ayrshire Council's Roads and Transportation Division have no objections following discussions with the applicant and amendments to the proposed scheme. Concerns regarding road layout, traffic calming, parking and the SUDS pond have been addressed to the satisfaction of the Road & Transportation Division. For the outline application, a Transport Assessment was agreed with the Roads Division, which revealed that southbound queuing on Western Road occurs during peak hours, and traffic leaving the site and turning right onto Western Road would therefore be inhibited. A Legal Agreement was entered into under the outline application to ensure the receipt of a developer contribution to facilitate the formation of a layby extension on Western Road and these works have now been carried out.

All traffic and drainage issues have been solved to the satisfaction of the Council's Roads Division. The works required under the Legal Agreement have been undertaken as agreed.

3.4 Scottish Power objects to this development in that they have not received any intimation from the applicant, if, or to what extent, their apparatus in the vicinity may be affected.

This is a matter to be resolved between Scottish Power and the applicant that need not impact on the progression of the application. An advisory note can be incorporated if Members choose to grant consent, advising that the applicant contact Scottish Power.

3.5 Scottish Environment Protection Agency does not object to the proposal and notes that the scheme indicated on the accompanying drawings would meet with their requirements for surface water drainage. All waste materials should be disposed of at a suitably licensed facility in accordance with the Waste Management Licensing Regulations 1994, as amended. Foul drainage should be connected to the public sewer, and will be subject to the written assurance from Scottish Water that any additional flow arising from this development will not prejudice the existing storm flows in the area. Under the outline application, Scottish Water stated that a separate application must be made to Scottish Water for permission to connect to the public wastewater system and/or water network, which is the responsibility of the applicant.

Noted. An advisory note can be incorporated to advise the applicant to contact Scottish Water in this regard.

3.6 Bonnyton Community Council has submitted a representation which objects to the proposal on a number of grounds:

(i) That it does not conform to the East Ayrshire Local Plan, in that the Council would be supportive of 60 dwellings on this site, and the proposal is for 111 (now revised to 105 units):

As detailed in Section 5 of this report, the application site is currently identified for industrial use under the adopted East Ayrshire Local Plan 2003. In effect the earlier application for outline consent in 2005 was contrary to the Development Plan, however, a decision was taken by the Development Services Committee to approve this site for residential use. In the emerging Alteration to the Local Plan, the site is identified for residential use with a notional capacity for 60 dwellings; however, this figure is purely indicative. Whilst using this site for residential purposes may be contrary to the adopted Local Plan, the extant outline consent for residential use establishes the principle of residential development.

(ii) The proposed densities are not compatible with surrounding densities:

The surrounding densities to the south and south east are, by design, lower due to the layout of inter-war local authority schemes. To the east of the application site, however, across Western Road, the later 1960's housing density is generally similar to that as proposed at the Bellway site. It is considered that the densities proposed are consistent with the Council's design and open space standards and the site is not overdeveloped.

(iii) There is a lack of amenity:

It is considered that the site is well planned with a mix of house types, a varied landscaping scheme, SUDS attenuation pond, and play area with a wide range of play equipment. If Members choose to grant consent, a condition can be included to provide a pedestrian/cycle link from within the development site to the adjacent National Cycle Network for cycling and walking. The site is in relatively close walking proximity to the town centre whilst also on a main bus route with access to the established range of services located there. The design of the flatted dwellings has been considerably improved to enhance its position next to the listed Southhook Potteries building which will also enhance visual and residential amenity.

(iv) The site is overcrowded:

The proposed scheme does not represent a high number of units for the overall site area of 2.8 hectares, and is considered to be of an acceptable density. It is interspersed with a range of open space features and landscaped areas which provide an appropriate setting for the development. Furthermore, the flatted development, set within its own grounds, comprises 24 of the units. Terraced properties amount to 36 units, and are interspersed throughout the development site between the detached and semi-detached units, providing a mix of style and interest, with the result that the layout will not appear overcrowded. 21 houses are proposed as detached, and are mixed between one and two storey. The mix of house types is planned to suit all sectors of the housing market and noting the generous open space provision on the site, the layout is considered to be acceptable in this instance. Some gardens have very generous garden grounds far in excess of the minimum standard in the Adopted Local Plan, which is an illustration of the good mix of house types within the site. The landscape buffer and SUDS pond will allow screening for the site from industrial uses to the west, whilst providing an area for leisure, recreation and biodiversity fulfilling the requirements of the Council's open space standards.

(v) The play area should not be sited as proposed as it is too close to the road network and would expose users to environmental pollution. The proposed siting close to Western Road would encourage youths onto the play equipment at night:

The play area has since been moved away from Western Road and will now be part of a central 'green' which is overlooked in part by dwellinghouses to ensure maximum natural surveillance of the area, creating a central facility which is unlikely to be of attraction to

young people from outwith the development itself. The location of the play area within this larger area will allow children to play safely in an area of suitable size and subject to informal or 'natural' surveillance without being close to the strategic transport route.

(vi) There is no pedestrian footpath into the site for residents approaching the site from the south, and private gardens would probably be used instead.

The site will be contained along the southern, western, and northern edges by a 1800mm high fence. The entrance onto Western Road will consist of a feature wall with railings. There is a footway provided around Southhook Road and Western Road, to ensure that pedestrians accessing the site do so via Western Road.

3.7 Network Rail has no objections to the application, but has suggested advisory notes to ensure operational land within their control is protected.

The matters raised can all be covered by advisory notes should Members decide to grant consent.

4. REPRESENTATIONS

4.1 Neighbour notification was undertaken by the applicants and the application was advertised in the local press. Two letters of objection were received (one was submitted following the consultation process from Bonnyton Community Council and the points raised are discussed at 3.6 above). One additional letter of objection has been received from a nearby business use, which is a car wash and valleting use in Southhook Road, in relation to concerns that Southhook Road might be used for construction traffic, and that this might have a detrimental effect on neighbouring uses.

A condition can be attached to any consent granted by Members to ensure that construction traffic accesses the site via Western Road, should the Members decide to grant consent.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Local Plan (EALP) (2003).

Ayrshire Joint Structure Plan

5.2 Noting the location of the application site within the Kilmarnock settlement boundary, there are no relevant policies in the Ayrshire Joint Structure Plan and the application therefore falls to be assessed against the Adopted East Ayrshire Local Plan.

East Ayrshire Local Plan

5.3 Policy IND 5 safeguards those established industrial areas as shown on the Local Plan Maps for business, industrial and storage and distribution uses.

The proposed housing development is located within a safeguarded industrial area, and therefore, it is contrary to Policy IND 5. It was decided at the then Development Services Committee in 2005 to grant outline consent for residential development over the vast majority of the site. The principle of residential development on this site has therefore been established.

5.4 Policy ENV7 expects developers to comply fully with the Council's existing and emerging design guidance.

The proposed development is considered to be compliant with the terms of this policy noting the design, layout, range of external materials. In particular the flatted properties facing onto the Western Road have been re-designed to respect and pick up design influences from the adjacent Listed potteries building. This revised design will allow the proposed flats and the potteries building to have a more harmonious association to the benefit of the streetscene and wider cultural significance of the area.

5.5 Policy RES22 required developers to provide the minimum private open space standards.

The application conforms with the term of this policy, with the exception of 18 of the units, which are mid-terraced properties. Noting however that this represents a small proportion of the overall site, this is acceptable in this instance noting also the public open space to be provided.

5.6 Policy RES19 requires the provision of public open space to standards required by the Council.

The levels of public open space are appropriate and the application meets the standards as required in the Adopted Local Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the Alteration to the East Ayrshire Local Plan with Modifications, the consultation responses received which are addressed in Section 3 of the report, the letters of objection, the planning history of the site and the impact upon the amenity of the area.

Alteration to the East Ayrshire Local Plan, Finalised Draft with Modifications

6.2 Policy RES3 states that 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;

Residential development at this location is unlikely to have any detrimental impact on the surrounding environment as the surrounding area is largely residential or commercial in nature.

- (ii) has no unacceptable transportation and infrastructure implications;

There are no outstanding issues from the Roads Division and other consultees.

- (iii) is compatible with surrounding densities and housing types; and

The densities and house types are acceptable for this location.

- (iv) is in full compliance with the Council's approved Design Guidance.

It should be noted that the proposed development complies with the Council's Design Guidance relating to New Residential Development.

6.3 In terms of Policy RES23, 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.

6.4 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. Developers will be required to comply with the indicative basic standards set out in Schedule 4 of the Local Plan in preparing their proposals. 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.

In this instance, the level of public open space provided is acceptable and conforms to the standards within the Alteration to the EALP.

6.5 Under Policy RES26, developers for new housing developments will be required to observe the minimum private open space criteria and standards detailed in Schedule 5 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

Some mid-terraced plots do not have garden sizes of the minimum standard for private garden ground, which is detailed in the Alteration to the Local Plan, however, given the mix of houses types and the limited terraced properties, noting that the estate is planned to suit all sectors of the housing market, the generous open space provision on the site, and the more extensive garden sizes of the majority of other plots, this is considered acceptable in this instance.

Consultation Responses

6.6 The consultation responses are detailed in the report and have been carefully considered. The submissions do not raise any issues of sufficient weight to warrant refusal of this application. Bonnyton Community Council submitted an objection as detailed in section 3 of this report and whilst noted and carefully assessed, do not raise issues that would warrant planning consent being refused. The application has been the subject of detailed negotiation and discussions with the applicant's who have made significant improvements to the overall scheme and it is considered that any issues raised by consultees can be addressed by conditions should Members choose to grant consent.

Objections

6.7 The points raised in the letter of objection and the objection received from Bonnyton Community Council have been addressed under Sections 3 and 4 of this report. None of the issues raised are considered to warrant refusal of this application.

Planning History

6.8 The planning history for this site includes various applications relating to its historic industrial use. After this ceased, the following application was considered which established the principle of residential development at this site:

- 05/0299/OL - proposed residential development with associated car parking and landscaping. Approved with conditions by the Development Services Committee on 22 February 2006. This decision was also subject to a Section 75 Legal Agreement requiring road widening works on Western Road at the junction with Bonnyton Road. These works have now been undertaken and completed on site.

6.9 The most relevant application for Members consideration is 05/0299/OL which established the principle of residential development at this site.

6.10 A further application was received ref: 08/0233/FL for a proposed sales cabin and associated parking. This application has not been determined although the applicants have formed this building on site. The application will be processed further upon determination following any decision on this application for the residential development.

Impact on Amenity

6.11 Noting the mix of uses surrounding the site, which include existing residential development, and the consented residential use of this site, it has already been determined by the outline consent that residential development at this site would be appropriate in principle and is capable of being implemented with a minimal impact upon surrounding amenity. In terms of visual amenity, the housing styles represent a quality development with landscaping and with SUDS elements that will not only add visually to the overall development but will add to the general surrounding area in terms of biodiversity for flora and fauna. Trees on the site will be protected to ensure the site has a semi-mature setting, thus maintaining the visual amenity of the wider surroundings. The house types are a mix of flatted, terraced, semi detached and detached units and the style of the flatted elements is fully compatible with the nearby Art Deco pottery building as detailed previously in this report. The predominant material is facing brick which can be conditioned, if Members choose to grant consent, to provide samples to ensure colours are visually acceptable for the area.

6.12 The development proposes a mix of house styles to reflect the requirements of both first time buyers and those who are moving up the property ladder. The house styles proposed on site range from large detached houses to semi detached and also smaller terraced/flatted properties to provide this 'mix'. This accords with advice given in Scottish Planning Policy 3: Planning and Housing, which advocates that sites should offer a good distribution of housing choice and style, for reasons of both affordability and social mix.

6.13 With regard to the appearance of the flats facing towards Western Road this was originally submitted as a contemporary design, however during detailed negotiations, the design was changed to incorporate details which echo the themes of the adjacent red brick Art Deco building for the Southhook Potteries (Category B Listed Building). The revised design includes geometrical, functional building lines which pick up on elements of the adjacent building, with use of facing brick, stylised decorative banding and similar styled windows.

6.14 The site is currently a brownfield site, in reasonably close proximity to the town centre and is well served by public transport and by private car along Western Road to the A77/M77 and beyond. The site has lain derelict for a number of years and presently constitutes an unattractive feature on one of the town's main arterial routes. The development of the site for residential purposes will bring the site into productive use and allow for a more attractive area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There will be a financial contribution associated with the proposal as the applicants have agreed to contribute to the Sports, Leisure and Recreation (SLR) Fund, through Policy TLR5 of the adopted Local Plan. The applicants have elected to contribute to the SLR Fund via a Legal Agreement which will ensure that the decision notice is with held, pending the outstanding Legal Agreement, discussed below.

7.2 A Legal Agreement was reached under the outline application (No. 05/099/OL) to ensure the receipt of a developer contribution to facilitate the formation of a layby extension on Western Road and these works have now been carried out. This Agreement also specified that no work shall commence on the application site in respect of the construction of any dwelling houses until renovation works had commenced on the adjacent B listed Potteries building and that there should be a contribution of 1% of the build costs towards the Council's Sports, Leisure and Recreation Fund.

7.3 The Legal Agreement, whilst related to the land, is drafted with reference to the Outline Consent. As this current application, is a full application in its own right, it is no longer associated with the Outline Consent. The extant Agreement

requires to be re-drafted for this proposed scheme, to ensure that principles previously established regarding the implementation of development in relation to the adjacent listed building and development contributions, are maintained.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report the application is contrary to industrial provisions of the Development Plan.

8.2 As indicated in Sections 5 and 6 of the report, however this site already benefits from a Council decision to grant outline permission for residential use and the associated road works have already been undertaken, widening the Western Road carriageway at the traffic lights at Bonnyton Road/Munro Avenue.

8.3 As indicated in Section 6 there are material considerations relevant to this application, including the earlier grant of Outline Consent. Two objections have been received from the statutory consultation and neighbour notification process and these whilst noted, are not considered to warrant refusal of this application. It is noted that the remaining consultation responses do not suggest that the application should be refused.

8.4 In this instance, it is considered that the material considerations are not such as to indicate that the proposal would be unacceptable. Detailed discussions have been held with the applicants' and a revised and significantly improved design layout has been achieved. It is therefore considered that this application should be approved, subject to conditions.

9. RECOMMENDATION

9.1 It is recommended that this application for full planning consent be approved subject to the conditions listed on the attached sheet, but that the decision notice not be issued until the Solicitor to the Council has concluded with the applicants an amendment to the terms of the extant agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 in accordance with paragraph 7.2 of this report.

Alan Neish
Head of Planning and Economic Development

9 September 2009
MF/KW
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Application No: 05/0299/OL
8. Legal Agreement

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

08/0042/RM

Site of Proposal:	Former Blackwood Brothers Factory Western Road/Southhook Road KILMARNOCK KA1 2NN
Nature of Proposal:	Erection of 87 Dwellings and 24 Flatted Dwellings and Associated Access and Landscaping
Name & Address of Applicant:	Bellway Homes Ltd Scotland West Caird Drive Hamilton ML3 0QA

DPOs Reference: MF/KW

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

1. The development hereby approved shall be implemented in accordance with the plans stamped as forming part of this permission unless a variation is required by a condition of the permission or a non-material change has been agreed in writing by the Planning Authority.

REASON To ensure that the development is carried out in accordance with the approved plans unless otherwise agreed.

2. Notwithstanding the submitted plans, details and samples of all external materials to be used in the construction of the dwellings and the pavement/road/driveway surfaces shall be submitted to and approved by the Planning Authority in writing prior to the commencement of development on site and implemented as approved thereafter.

REASON In the interests of visual amenity; to ensure that the external finishing materials are appropriate to the character of the area.

3. Details of a footpath link to the National Cycle Network Route 73 in the north east corner of the application site shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site and thereafter shall be completed prior to the occupation of more than 50% of the residential units within the site. The footpath link shall be retained as approved thereafter.

REASON In the interests of residential amenity and to afford appropriate access to this facility.

4. Notwithstanding the approved plans, details of the design and construction of all boundary features, 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 and shall be implemented as approved prior to the occupation of any of the residential units.

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

5. Notwithstanding the approved plans, a phasing plan for the completion of all roads and footpaths to final wearing surface, street lighting and street signs within the application site shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site. The approved phasing plan shall thereafter be adhered to at all times.

REASON In the interests of residential amenity and road safety.

6. Notwithstanding the submitted plans, the exact location and form of any traffic calming measures shall be submitted to and approved in writing by the Planning Authority. These shall be implemented as approved prior to the occupation of any residential unit and maintained thereafter.

REASON In the interests of road safety and residential amenity.

7. Notwithstanding the approved plans, the play area and associated equipment and any boundary treatments shall be submitted to and approved in writing by the Planning Authority before any development commences on the site and shall be implemented as approved and maintained thereafter.

REASON To ensure a satisfactory play area is achieved and in the interests of residential amenity.

8. All future occupants of the proposed dwellings shall be made fully aware of the location of the play area as approved under condition 7, details of the play equipment, on-site drainage, including the SUDS detention basin, and maintenance arrangements for these items prior to the purchase of any of the residential units. Details of how future occupants of the proposed residential units are to be informed of these approved items shall be submitted to and approved in writing by the Planning Authority prior to any works commencing on site.

REASON To ensure residents are fully aware of the location of these items in the interest of residential amenity.

9. The play area shall be fully completed prior to the construction of more than 50% of the residential units within the site and shall be subsequently maintained in accordance with the approved details.

REASON To ensure a satisfactory play area is timeously achieved and in the interests of residential amenity.

10. Prior to the commencement of development on site, final details of the design (including boundary treatment) planting and maintenance of the proposed Sustainable Urban Drainage System following installation shall be submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall have been formed with all necessary consents in place, prior to the occupation of any residential units. The SUDS arrangement shall thereafter be maintained in accordance with the approved details.

REASON To ensure adequate drainage is provided.

11. Notwithstanding the approved plans, no trees on site 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 the development works.

12. Prior to the commencement of any works start on site, the developer shall submit details and specifications of the protective measures necessary to safeguard the existing trees on the site during development operations. The developer shall ensure all construction work on site within the vicinity of the remaining trees existing on the site shall be protected within the parameters of British Standard BS5835 (2005) 'Trees in relation to Construction Work'. 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, fuel 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.

13. Notwithstanding the approved plans, the landscaping details shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any works on site.

REASON In the interests of residential amenity.

14. The Landscaping Scheme as approved under the terms of Condition 13 above, shall be completed within the first planting season following the completion or occupation of the last dwellinghouse, whichever is the sooner. For the avoidance of doubt this landscaping scheme shall include the landscaping of the garden grounds of individual plots.

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

15. 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 trees, shrubs or 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.

16. All site servicing and workers' vehicles shall be accommodated within the development site at all times throughout the period of construction unless otherwise agreed in writing in advance by the Planning Authority.

REASON In the interests of road safety and residential amenity.

17. A detailed Construction Traffic Management Plan shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on-site and adhered to at all times throughout the period of construction and site clearance on-site. This plan shall indicate that construction traffic must enter and leave the site direct from Western Road.

REASON In the interests of residential amenity and road safety.

18. No demolition or external construction work, site clearance or preparation 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, nor at any time on Sundays.

REASON In the interests of residential amenity.

19. During the period of construction works, the developer of the site shall ensure that adequate and continuing measures are taken such that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of public and road safety.

20. No materials other than topsoil shall be brought into the site for the purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in the making up of ground levels.

21. Any changes in the finished floor levels, road levels, proposed ground levels approved of less than 500mm, shall be notified and approved by the Planning Authority in writing prior to their implementation. Higher increases will require the submission of a further planning application, prior to implementation.

REASON In order to ensure that the proposed levels are implemented in accordance with the approved details.

22. Any waste arising from the construction works shall be disposed of to the satisfaction of the Waste Management Authority and other than by means of burning on site.

REASON In the interests of residential amenity.

23. All construction traffic shall only take access to, and egress from, the site direct the site from Western Road. No construction access shall be formed from Southhook Road at any time without the prior written consent of the Planning Authority.

REASON In the interests of road safety.

24. Prior to any work commencing on the flatted properties hereby approved details and samples of the design and profile of the proposed window and door units shall be submitted to and approved in writing by the Planning Authority. The design and profile of these windows and door units shall compliment the original

design of the adjacent listed potteries building. Thereafter the windows shall be installed as per the approved details and maintained thereafter.

REASON In order to ensure that the fenestration design and profile are appropriate noting the close relationship to the adjacent listed building.

25. A verification statement document of all remedial action which have been undertaken at the application site including volume, depth, source, and quality of imported material (including test results) shall be submitted to and approved in writing by the Planning Authority prior to the commencement of works on site, and shall thereafter be maintained in accordance with the approved details.

RAESON In the interest of residential amenity and to ensure the land contamination on site is appropriately addressed.

Notes to Applicant:

1. Construction works associated with the development shall be carried out in accordance with SEPA's guidelines on avoidance of pollution, and reference should be made to the relevant Pollution Prevention Guidance (PPG) from SEPA. Any waste materials imported to the site should be stored and used only in accordance with the waste management licence or exemption under the Waste Management Licensing Regulations 1994 as amended. Any waste materials removed from the site must be disposed of at a suitably licensed or exempt waste management facility in accordance with these Regulations.

2. The applicant should make early contact with Scottish Water on 0845 601 8855. The applicant should ensure that prior to development commencing on site, they have secured agreement from Scottish Water regarding the suitability of all proposed drainage connections and the suitability of the existing infrastructure to accommodate such connection.

3. The developer should make early contact with Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

4. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific arrangements which may require to involve the developer or other third parties will be considered with the overall framework recommended in the design manual for SUDS published by CIRIA.

5. The applicant is advised to make early contact with Scottish Water Developer Services, Clyde House, 419 Balmore Road, Glasgow, G22 6NU regarding sewer and water connections.

6. The applicant shall contact the Council's Roads and Transportation Division (Tel. 01563 576358) with regard to any traffic management, road construction or works.

7. The developer should provide a suitable 1.8m trespass-proof fence where the site borders operational railway land.

8. All/any building should be situated at least 2 metres from Network Rail's boundary. The applicant should ensure that the construction and subsequent maintenance, of proposed buildings can be carried out without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land.

9. The materials contained within the site subject to the applicants control should be stored and processed in a way which prevents over spilling onto Network Rail land and should not pose excessive risk to fire. If hazardous materials are likely to be sited on the land then Network Rail should be further contacted by the applicant.

10. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicated mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Please contact Network Rail for further advice.

11. The applicant is advised to contact Scottish Power with regard to their apparatus in the vicinity of the site.

12. The verification statement for the contamination on site should be formulated in line with CLR11 Modal Procedures for the Management of Land Contamination.