

EAST AYRSHIRE COUNCIL

**CENTRAL LOCAL PLANNING COMMITTEE: 31 MARCH 2006
05/1180/FL: ERECTION OF 18 NO. FLATS
AT 43 LONDON ROAD, KILMARNOCK, KA3 7AD
BY BLAVEN INVESTMENTS.
EAST AYRSHIRE COUNCIL**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of a flatted block comprising 18 two-bedroom units. The proposed block is in a 'U' shape, with the block narrowing in the middle of the development to allow for open space. Eighteen parking spaces are provided and a total of 517 square metres of amenity open space.

1.2 The proposed block will have its frontage onto London Road, in line with the Masonic Hall. Some of the features of the Masonic Hall have been picked up in the design of the building, including the use of sandstone, the triple aligned windows, part of the roof design and the bay feature to the front of the building. Features mirrored from the unlisted properties on the opposite side of London Road include the wooden framed sash and case windows and the slate on the roof. Externally, materials proposed are 'buff' facing brick, red sandstone and render.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Legal Agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 with the applicants in respect of a contribution to the Sports, Leisure and Recreation Fund.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application does not accord with the policies of the Development Plan, therefore, given the terms of Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 As indicated at Section 6 of the report there are material considerations relevant to the application. The consultees have not raised any adverse comments which cannot be addressed. The concerns of the objectors whilst noted, are not considered material to the determination of this application. The proposed development is contrary to the policies of the EALP, however, it is considered that the amenity of the area and the setting of the London Road Outstanding Conservation Area will be greatly improved by this development. The site is currently an unsightly vacant site, and this development would integrate the site into the area. The development of the site for residential purposes is considered acceptable as it is the predominant use in the area.

3.3 The design and materials proposed for this development are considered to be of a high standard and are considered to integrate well into the surroundings. The design, while being a modern building, features some traditional elements, and the materials include facing brick and have incorporated traditional red sandstone, found on other buildings in the vicinity. The proposed layout of the flatted development is considered to be sympathetic to the locality and the street frontage created will sit well alongside the adjacent B Listed Masonic Hall. The proposed development will remove a vacant site and replace it with a well-designed development and can be supported as an exception to policy.

CONTRARY DECISION NOTE

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

Alan Neish
Head of Planning, Development and Building Standards

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

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Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is a larger scale development of area significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is presently vacant with the front section of the site formerly occupied by the Jet Filling Station, which has since been demolished. The area beyond comprises vacant land. The total site area is 0.52 acres. The site is located outwith the Town Centre Boundary and directly adjacent to the London Road Outstanding Conservation Area.

2.2 The site is relatively flat in nature and is in a dilapidated condition throughout the front section of the site. The rear section of the site is currently grassed. To the north of the site is London Road, with residential properties and non-residential properties at this location. To the east of the site is the Masonic Hall, which is a Category B Listed Building. To the south of the site is Kilmarnock Academy and the Academy Apartments, which has been converted into flatted dwellings. There is an area of vacant ground to the west of the development site.

2.3 **Proposed Development:** Full planning permission is sought for the erection of a flatted block comprising 18 two-bedroom units. The proposed block is in a 'U' shape, with the block narrowing in the middle of the development to allow for open space. Eighteen parking spaces are provided and a total of 517 square metres of amenity open space.

2.4 The proposed block will have its frontage onto London Road, in line with the Masonic Hall. Some of the features of the Masonic Hall have been picked up in the design of the building, including the use of sandstone, the triple aligned windows, part of the roof design and the bay feature to the front of the building. Features mirrored from the unlisted properties on the opposite side of London

Road include the wooden framed sash and case windows and the slate on the roof. Externally, materials proposed are 'buff' facing brick, red sandstone and render.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have commented that the parallel parking bays 7 to 9 are not accessible and the isle width of 5.0 metres for bays 1 to 6 and 10 to 18 is too narrow. The location of the bin store is of concern as the bin collection vehicle cannot turn within the car park.

The comments of the Roads Division with regard to the parking bays and the location of the bin store can be addressed by attaching conditions to any grant of planning permission requiring these matters to be re-sited and re-designed within the site layout.

3.2 The Council's Environmental Health Division has no objection to the proposed development. They have requested a site remediation validation report confirming that necessary remedial works have been carried out prior to any further works being undertaken.

It is considered acceptable for the refuse collection vehicle to reverse off London Road to the proposed bin storage site. The bin requirements for the site are as follows: eight 1280 litre bins (four for residual waste and four for paper/cardboard), four 240 litre wheeled bins one for clear glass, one for brown glass, one for green glass and one for tins/cans.

The surface from the bin store to the road requires to be level (any kerbs require to be lowered to allow safe manoeuvre of the bins). In a situation where communal bins are specified the refuse collectors will collect, empty and return the bins to the store.

The requirements of Environmental Health can be addressed by attaching conditions to any grant of planning permission.

3.3 Scottish Environment Protection Agency (SEPA) have no objections provided surface water is treated in accordance with SUDS and any resultant land contamination is addressed due to the previous use as a petrol filling station.

The issue of land contamination has been addressed by the Council's Environmental Health Section, and the Council's Land Contamination Officer is satisfied with the site investigation report and the remedial actions proposed. The requirements of SEPA in relation to SUDS can be

addressed by attaching a condition and notes to any grant of planning consent.

3.4 Scottish Water object to the development however they would withdraw this objection if evidence is submitted to the Planning authority that an agreement has been reached by the applicant with Scottish Water for the provision of a drainage and/or water scheme to serve the development. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. They support the principal of a sustainable urban drainage system (SUDS) and consider this should be utilised in the surface water design.

A note can be attached to any grant of planning permission advising the applicant to make early contact with Scottish Water regarding the provision of a drainage and/or water scheme for the development.

A condition and notes can be attached regarding the provision of a SUDS system.

3.5 Power Systems and Scottish Gas Networks and Historic Scotland have no objections to the proposed development.

Noted.

3.8 Piersland and Bentick Community Council have welcomed the proposal. However, they have expressed concern regarding the entrance/exit to the site going directly onto London Road where the traffic from this site will conflict with a busy main road and traffic going up to Braeside Street. There is also a bus stop very close to where the new entrance/exit is proposed.

The Council's Roads and Transportation Division have assessed the proposal in terms of road safety and the proximity to the bus stop and have no adverse comments regarding the development.

4. REPRESENTATIONS

4.1 There are three objections to the proposed development; the Kilmarnock Academy School Board, Scottish Water and Piersland Bentinck Community Council. The concerns of the latter two are detailed in Sections 3.4 and 3.8 of the report.

4.2 The ground currently on the site of Kilmarnock Academy is referred to as vacant ground. This is not the case. It is regularly used as a PE area and is the only suitable piece of ground for this purposes on the campus. Removal of this ground for house building would be contrary to government policy on the sale of school grounds when it reduces access to PE facilities.

The proposed development has been assessed against the policies of the EALP which are addressed in Section 5 of the report.

4.3 The development will add to the traffic problems. In particular the entrance/exit from the proposed car park will cause problems for cars and pedestrians accessing Kilmarnock Academy via Braehead Street. Cars exiting the car park will have difficulty negotiating both the traffic in London Road and the cars turning into Braehead Street. The potential for accidents is clear.

The Council's Roads and Transportation Division have assessed the proposal and have made no adverse comments in relation to access to and from the site and in terms of road safety.

4.4 A barrier would require to be erected between the school grounds and the garden area of the flats. This barrier needs to be at least 5 metres from the current school buildings to allow access to the building, not immediately adjoining as shown. The fire exit from the school games hall must have an exit pathway, it appears that staff and pupils would exit onto a tiny enclosure from which there is no egress and remain right beside the building, only able to leave the area by re-entering the games hall. This would be unsafe and unsatisfactory.

The fire exit from the adjacent school games hall would be unaffected by the proposed development with free access being maintained. Staff and pupils would exit out into the car park area for the flatted development and then walk to London Road. This would be an improvement in what presently exists as this area is presently all enclosed. It is not intended to erect any significant barrier/boundary treatment with the adjoining school buildings.

4.5 Pupils currently play football in the playground, which is encouraged as a healthy alternative to other activities. The proposed building is so near the perimeter that broken windows are inevitable – this is not a suitable location for a residential building.

It is not considered that the proposed development will have an adverse impact on the activities of the adjacent school.

4.6 This area of Kilmarnock is home to a number of older listed properties. The proposed flats do not blend well with the existing nature of the area.

The proposed development is considered to be compatible with the existing properties in the area. Many features of the adjacent Masonic Hall and the properties on the opposite side of London Road have been incorporated into the design to enable the development to be in keeping with its locality.

4.7 It is not satisfactory to site residential accommodation so close to a school campus. The proposal will have an ill effect on Kilmarnock Academy and will not provide a pleasant living environment for the residents.

It is not considered that the proposed development will have an adverse impact on the adjacent school, nor vice versa.

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 and the Adopted East Ayrshire Local Plan (EALP).

Ayrshire Joint Structure Plan

5.2 There are no policies in the Ayrshire Joint Structure Plan that are particularly applicable to this proposal, although Policy G1 does give priority to the use of land for development within existing settlement boundaries.

Adopted East Ayrshire Local Plan

5.3 The application site is safeguarded by Policy RTC 12 for Class 10, non-residential institution; Class 11, assembly and leisure or Sui-Generis theatre uses as detailed in the Use Classes Order 1997. Residential proposals which meet the criteria identified in Policy RES 7 will also be considered acceptable within this area.

5.4 Policy RES 7 encourages the rehabilitation or conversion to residential use of existing buildings both within the settlement and the rural area. Policy RES 7 is not applicable to this proposal as the site is currently vacant and does not include any buildings for conversion.

The proposed development is therefore considered to be contrary to the provisions of policy RTC 12 as it does not fall within Classes 10, 11 or Sui-Generis Theatre Use of the Use Classes Order 1997 and does not fall within the criteria set out in policy RES 7.

It is however considered that an exception to the policy can be justified in this instance as it would result in the removal of an unsightly vacant site adjacent to an Outstanding Conservation Area and in a area where residential use is predominant.

5.5 Policy RES 22 requires all developers to provide a minimum of 25 square metres per bedroom of private open space. Open space standards may be relaxed at the discretion of the Council where it is considered appropriate.

The proposal does not meet the open space standards as required for flatted developments. The open space provided is 517 square metres. The standard required would be 900 square metres. The reduced open space provision is considered to be acceptable in this instance given that the proposal is on a brownfield site, would improve an unsightly site and is in close proximity to the town centre.

5.6 Policy ENV 4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. Wherever possible, all proposals should seek to preserve, enhance or incorporate features which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

It is considered that the proposed flatted development is sympathetic to the surrounding area. It is acceptable in terms of layout, size, scale and siting which have been developed to be compatible with the neighbouring Masonic Hall which is B Listed. The proposed building is set back from the road to be in line with the Masonic Hall, the size and scale of the frontage to the building are similar to the Masonic Hall and the layout does not compromise the setting of any of the surrounding listed buildings or the neighbouring Outstanding Conservation Area.

In terms of design and materials, the proposed development is considered to complement and blend it with the surrounding buildings. As described in section 2 of this report, some of the materials of the adjacent and opposite buildings have been incorporated into the proposals together with elements of the design features of the Masonic Hall.

5.7 Policy ENV 7 requires developers to comply with the Council's Design Guidance. The Design Guidance requires that house design for infill and gap sites recognises and reflects the scale, design features, density and materials of surrounding buildings and reflects and respects the built form of the surrounding area so as to integrate with existing buildings. Development outwith but affecting the setting of a Conservation Area will require to be sympathetic to the area in terms of design, scale, materials and character.

It is considered that the proposed development accords with Policy ENV 7 and the Design Guidance as the development has been designed and sited to minimise its impact on adjacent residential properties whilst being compatible with the surrounding area in terms of its height and design.

The proposed flatted dwellings are not visually intrusive nor will they have an overbearing or oppressive impact on adjoining properties.

5.8 The applicant has agreed to contribute to the Sports, Leisure and Recreational Fund in terms of Policy TLR5 of the EALP. They have indicated that they would be prepared to contribute to 1% of the construction costs which is consistent with Policy TLR5.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultation replies and representations received detailed in Section 3 and 4 of this report, and the planning history of the site.

Consultation Received

6.2 The consultations have been fully addressed in Section 3 of the report. With the exception of Scottish Water, there have been no adverse comments received from the consultation responses. The issues raised by the consultees can be addressed either through conditions or notes attached to any grant of planning consent.

Representations Received

6.3 The concerns of the objectors have been assessed and are not considered to be material in the determination of this application. Their concerns regarding access and road safety have not been supported by the Roads Division. The proposed residential development is considered compatible with the adjacent uses and is in keeping with the surrounding historic area.

Planning History

6.4 04/0125/OL: Proposed erection of flatted residential development approved on 2nd April 2004. This outline approval related only to the former petrol filling station site and did not include the area of land to the rear. The present development does not conflict with the terms of the outline planning consent.

7. FINANCIAL AND LEGAL IMPLICATIONS.

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

7.2 Legal implications would arise from the Council entering into a Legal Agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 with the applicant. The agreement would facilitate a contribution being made in order to address identified deficiencies in the provision of leisure and recreational facilities in the area.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report the application does not accord with the policies of the Development Plan, therefore, given the terms of Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 As indicated at Section 6 of the report there are material considerations relevant to the application. The consultees have not raised any adverse comments which cannot be addressed. The concerns of the objectors whilst noted, are not considered material to the determination of this application. The proposed development is contrary to the policies of the EALP, however, it is considered that the amenity of the area and the setting of the London Road Outstanding Conservation Area will be greatly improved by this development. The site is currently an unsightly vacant site, and this development would integrate the site into the area. The development of the site for residential purposes is considered acceptable as it is the predominant use in the area.

8.3 The design and materials proposed for this development are considered to be of a high standard and are considered to integrate well into the surroundings. The design, while being a modern building, features some traditional elements, and the materials include facing brick and have incorporated traditional red sandstone, found on other buildings in the vicinity. The proposed layout of the flatted development is considered to be sympathetic to the locality and the street frontage created will sit well alongside the adjacent B Listed Masonic Hall. The proposed development will remove a vacant site and replace it with a well-designed development and can be supported as an exemption to policy.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Legal Agreement under Section 75 of the Town &

Country Planning (Scotland) Act 1997 with the applicants in respect of a contribution to the Sports, Leisure and Recreation Fund.

CONTRARY DECISION NOTE

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

LIST OF BACKGROUND PAPERS

1. Application Form and Plan
2. Statutory Letters/certificates
3. Consultation Replies
4. Letter of representation.
5. Approved Ayrshire Joint Structure Plan
6. Adopted East Ayrshire Local Plan
7. Application No: 04/0125/OL

Anyone wishing to inspect the above papers please contact Fiona Campbell, Planning Officer on 01563 576787.

Implementation Officer: Dave Morris

23rd February 2006
FC/IMB

FV/DVM

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/1180/FL

Site of Proposal:	43 London Road KILMARNOCK KA3 7AD
Nature of Proposal:	Erection of 18 No. Flats
Name & Address of Applicant:	Blaven Investments 41 Craignethan Road Giffnock GLASGOW G46 6ST
Name & Address of Agent:	MCM Architects 38-40 Dundas Court New City Road GLASGOW G4 9JT

DPOs Reference: FC/IMB

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

(1) The proposed development shall be carried out in accordance with the application form and plans received on 24 October 2005, and amended plans received 10 February 2006.

REASON To ensure that the development is carried out in accordance with the approved details.

(2) Prior to the commencement of any works on site, details and samples of all external materials of the proposed development which shall include the use of natural sandstone shall be submitted to and approved in writing by the Planning Authority and thereafter shall be implemented as approved on site.

REASON To ensure the visual integration of the proposed development with the surrounding area.

(3) Notwithstanding the plans hereby approved, and prior to the commencement of any works on site, details and samples of all external ground surfaces shall be submitted to, and agreed in writing by the Planning Authority and thereafter shall be implemented as approved.

REASON In the interests of amenity of the development.

(4) Notwithstanding the submitted approved, the proposed bin store is not hereby approved. Alternative details of the provision for the storage of refuse bins and the treatment of these areas, which shall include a level surface with no kerbs to allow safe manoeuvring of the bins on to the road, shall be submitted to, and approved in writing by, the Planning Authority prior to commencement of any development on site and shall be implemented on site as approved prior to the occupation of any residential units. These details shall take cognisance of the storage needs of the Council's three bin recycling system.

REASON To ensure adequate access to and treatment of bin storage provision in the interests of the amenity of the area.

(5) Notwithstanding the plans submitted the proposed parking arrangement is not hereby approved. An alternative proposal for the provision of car parking for the development shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall be implemented on site prior to the occupation of any residential units.

REASON The proposed parking arrangement does not meet the standards of the Councils Roads Division.

(6) Prior to the commencement of any works on site, details of a landscaping scheme and its maintenance shall be submitted to and approved in writing by the Planning Authority. All landscaped areas shall thereafter be laid out and maintained as approved no later than the first available planting season after the occupation of the first residential property.

REASON In order to ensure a visually acceptable development.

(7) No external construction work, site clearance or preparation works shall take place before 08:00 hours and after 17:00 hours Mondays to Saturdays and at no time on Sundays.

REASON In the interests of the amenity of the neighbouring residential property.

(8) On completion of the remedial works approved under the site investigation report and prior to any of the residential units being occupied, the developer shall submit a report which will be approved in writing by the Planning Authority

confirming that the works have been carried out in accordance with the remediation plan.

REASON To provide verification that remediation of contamination has been carried out in accordance with the remediation plan.

(9) Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be formed and maintained on site in accordance with the approved details prior to the occupation of any of the residential units.

REASON To ensure that adequate drainage is provided.

(10) During the period of construction works, the developer of the site shall take adequate and continuing measures to ensure 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 and residential amenity.

(11) The development hereby approved shall be undertaken without detriment to neighbouring residential properties by virtue of noise, dirt or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

(12) Notwithstanding the plans hereby approved details of the exact location, design, materials and style of the boundary wall to be located to the sides and the rear of the application site shall be submitted to, and approved in writing, by the Planning Authority prior to any development commencing on site and shall be implemented on site prior to the occupation of any residential units.

REASON In the interests of achieving a good amenity for the development.

(13) Notwithstanding the plans hereby approved a boundary wall to the front elevation of the building shall be constructed along London Road. The wall shall be constructed of sandstone to match the building. Details of the style and location of the proposed wall and samples of the material shall be submitted to and approved by the Planning Authority prior to any development commencing on site and implemented on site prior to the occupation of any residential units on site.

REASON In the interests of residential amenity.

(14) Notwithstanding the approved plans, details of all external lighting shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall be installed on site prior to the occupation of any residential units

REASON In the interests of visual and residential amenity.

(15) Prior to the commencement of development on site, details of existing and proposed ground levels and finished floor levels shall be submitted to and approved by the Planning Authority and shall be implemented thereafter as approved.

REASON To enable the Planning Authority to retain control over the development of the site in the interests of visual and residential amenity.

NOTES

1. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
2. 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 within the overall framework recommended in the design manual for SUDS published by CIRIA.
3. SUDS shall be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
4. The applicant must contact Planning and Development Services Department of Scottish Water, 419 Balmore Road, Glasgow to discuss the impact of the development on Scottish Water's assets and the possibility of the existing water supply needing to be upgraded as a result of this application.
5. The applicant is advised to contact the Councils Roads and Transportation Division with regard to obtaining the necessary consents for this development. They can be contacted on 01563 576310.
6. The applicant is advised to make early contact with Scottish Gas Networks and Power Systems regarding their apparatus that may be affected by the development.

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