

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE - 2 APRIL 2004**

**04/0125/OL: PROPOSED ERECTION OF FLATTED RESIDENTIAL DEVELOPMENT AT 43 LONDON ROAD KILMARNOCK BY PETROL HYPERMARKETS LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Outline planning consent is sought to develop the site for flatted residential purposes. Indicative details illustrate a three and a half storey development of traditional design towards the northern site boundary. Also indicated are two flats on the ground floor, first floor and second floor with one flat on the third floor. The indicative plans also show 7 car parking spaces and a small area of amenity space to the rear of some 121 square metres. The indicative details indicate the use of red/brown stone and grey slates.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

#### **3. CONCLUSIONS**

3.1 As is indicated at Section 5 of the report, the application is not in accordance with the development plan. Therefore given the terms of Sections 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 There are material considerations relevant to this application as indicated in Section 6 of the report and they are generally supportive of the proposal. The proposed development is considered acceptable in principal and it is not considered that it will detrimentally affect surrounding properties in terms of amenity or road safety. The proposed development will remove a vacant and derelict site, which will help to improve the visual amenity of the area. It is considered that an exception to Policy RTC 12 of the Adopted EALP is appropriate in this instance due to the vacant unsightly nature of the site and the surrounding residential nature of the area. Details regarding the design, layout and access to the proposed development will be dealt with at the reserved matters stage. It is considered that a high standard of design will be required due to the close proximity of the site to an Outstanding Conservation Area and a number of Listed Buildings.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application 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 and Building Control**

**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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### 04/0125/OL: PROPOSED ERECTION OF FLATTED RESIDENTIAL DEVELOPMENT AT 43 LONDON ROAD KILMARNOCK BY PETROL HYPERMARKETS LTD

#### Report by Head of Planning and Building Control

## 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is contrary to the Adopted East Ayrshire Local Plan.

## 2. APPLICATION DETAILS

2.1 **Site Description:** This application relates to a site at 43 London Road, Kilmarnock which was occupied by a petrol filling station until March 2000. The site is vacant with the former petrol filling station building and the canopy remaining. The site lies to the east of the town centre adjacent to the London Road Outstanding Conservation Area and extends to some 835 square metres. It is bound to the north by London Road beyond which are traditional sandstone and slate townhouse villas, to the east lies the Masonic Hall which is a traditional red sandstone building, to the south and west is Kilmarnock Academy School.

2.2 **Proposed Development:** Outline planning consent is sought to develop the site for flatted residential purposes. Indicative details illustrate a three and a half storey development of traditional design towards the northern site boundary. Also indicated are two flats on the ground floor, first floor and second floor with one flat on the third floor. The indicative plans also show 7 car parking spaces and a small area of amenity space to the rear of some 121 square metres. The indicative details indicate the use of red/brown stone and grey slates.

## 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health and Waste Management Division have no objections in principle although recommend a full site investigation to address any potential ground contamination from the former petrol filling station use. All underground fuel tanks should also be removed from site and disposed of in a satisfactory manner. Should permission be granted the applicant will need to provide adequate bin storage and suitable access for uplifting. It is also noted that the site is in close proximity to the

main road and local road access to nearby schools and the Masonic hall which has regular entertainment functions.

***Noted. It is recommended that appropriate conditions be attached to any grant of planning consent relative to a site investigation to assess and address site conditions and ensure adequate bin storage and access arrangements. With regard to noise and disturbance from adjacent uses, the proposed building can be designed to minimise any impact and notwithstanding this, anyone purchasing a flat will be aware of the adjacent uses.***

3.2 Scottish Environment Protection Agency; The Piersland Bentinck Community Council and the Coal Authority have not replied to their consultation letter at the time of writing this report.

***Noted.***

3.3 Transco and East Ayrshire Council, Department of Educational and Social Services have not raised any objections to the proposed development.

***Noted.***

3.4 Scottish Water have not objected to the application although they have recommended early contact with the developer to discuss connection to the public water and sewerage systems. Scottish Water also recommend the implementation of a Sustainable Urban Drainage System (SUDS).

***Noted. It is recommended that a condition and notes be attached to any grant of planning consent regarding the implementation of a Sustainable Urban Drainage System and making early contact with Scottish Water regarding public water and sewerage connection.***

3.5 East Ayrshire Council's Trading Standards Service advise that the site previously operated as a petrol filling station until its closure in March 2000. Decommissioning works thereafter drained all such pipes and residue from the tanks etc and filled all underground storage tanks with hardfoam. All 3 tanks are still on site and the applicant should undertake all further decommissioning and removal works in accordance with relevant guidelines and provide a Safety Method Statement and Risk Assessment which covers the work to be undertaken and remedial measures.

***Noted. It is recommended that a condition be incorporated within any planning consent which requires the applicant to submit measures to address site contamination and the measures to be adopted to address and remove the tanks and pipework relating to the petrol filling station.***

3.6 East Ayrshire Council Roads and Transportation Division have advised that they are proposing changes to the road layout adjacent to the development site and the applicant will require to accommodate these in the access arrangements. Consequently they have recommended deferral of the application. The alterations will involve bus corridors.

***The Roads & Transportation Division have not raised any objection to the proposed development. Final details of the proposed access arrangements and car-parking provision for the residential development will be approved at the reserved matters stage. It will at that time be for the developer to establish that his access arrangements are compatible with any changed road layout. A condition can ensure that access arrangements are appropriate.***

#### **4. REPRESENTATIONS RECEIVED**

4.1 No objections have been received from third parties. One letter of support has been received from a neighbouring resident who welcomes the redevelopment of the site. He states that the former petrol station has been a major eyesore for far too long and the proposed change of use is entirely appropriate for London Road and the surrounding area, providing the building is in-keeping with the style and character of traditional townhouse property in London Road.

#### **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 (1999) and the Adopted East Ayrshire Local Plan, (EALP).

5.2 The application site is within an area protected by Policy RTC 12 of the EALP which safeguards the area extending eastwards from the Palace Theatre for Class 10 (non-residential institutions); Class 11 (assembly and leisure) or sui-generis theatre uses as detailed in the Town and Country Planning (Use Classes) (Scotland) Order 1997. Residential proposals which meet the criteria identified in Policy RES 7 will also be considered acceptable within this area.

***The proposed development is technically contrary to Policy RTC12 however an exception to policy can be justified in this instance as the application site has been in a vacant unsightly condition for a number of years. The site is also located within a mixed use area where there are a number of residential properties in close proximity. Policy RES 7 relates to the rehabilitation or***

***conversion of existing properties and is not applicable in this instance where no conversion is proposed.***

5.3 Policy RES 4 is also relevant and states that within settlement boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites subject to certain criteria. Specifically this refers to an assessment of the proposal against the surrounding natural and built environment and adjacent uses, transportation and infrastructure implications, compatibility with surrounding densities and housing types and compliance with the Council's Design Guidance.

***It is considered that residential development will not have an adverse impact on surrounding uses as the neighbourhood is largely residential in nature. The application is in outline and any details of design and layout are purely indicative at this stage and would be dealt with at the reserved matters stage. The principle of housing development in this location is acceptable. The details of the proposed development will be assessed against the Council's Design Guidance at that time and it should respect the form, layout, design and scale of adjacent properties in the London Road Outstanding Conservation Area and nearby/adjacent listed buildings.***

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

6.1 The material considerations relevant to the determination of this application are the consultation responses which are detailed in Section 3 of the report.

### Consultation Responses

6.2 It is not considered that any issues raised relative to the consultation responses indicate that the application should be refused.

## **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 at Section 5 of the report, the application is not in accordance with the development plan. Therefore given the terms of Sections 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 There are material considerations relevant to this application as indicated in Section 6 of the report and they are generally supportive of the

proposal. The proposed development is considered acceptable in principal and it is not considered that it will detrimentally affect surrounding properties in terms of amenity or road safety. The proposed development will remove a vacant and derelict site, which will help to improve the visual amenity of the area. It is considered that an exception to Policy RTC 12 of the Adopted EALP is appropriate in this instance due to the vacant unsightly nature of the site and the surrounding residential nature of the area. Details regarding the design, layout and access to the proposed development will be dealt with at the reserved matters stage. It is considered that a high standard of design will be required due to the close proximity of the site to an Outstanding Conservation Area and a number of Listed Buildings.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application 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 and Building Control**

24 March 2004 (FMF/SA/IMB)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Consultation Responses.
3. Statutory Notices/Certificates.
4. Letter of Support.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

**Implementation Officer: Dave Morris**

040125OL43LondonRoadKilmarnockSA

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

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Site of Proposal: 43 London Road  
KILMARNOCK

Nature of Proposal: Proposed Erection of Flatted  
Residential Development

Name & Address of Applicant: Petrol Hypermarkets Ltd  
117 High Street  
Epping  
ESSEX CM16 4BD

Name & Address of Agent: Thomson Dawes  
21 Portland Road  
KILMARNOCK  
KA1 2BT

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DPOsReference:  
FMF/SA/IMB

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

1. Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the under mentioned matters hereby reserved.
  - (i) The layout of the site;
  - (ii) The size, height, design and external appearance of the proposed residential development;
  - (iii) The means of drainage and sewage disposal;
  - (iv) Details of the proposed access arrangements;
  - (v) The provision for open space;
  - (vi) The provision for car parking;
  - (vii) The boundary walls/fences to be erected;
  - (viii) The landscaping of the site;
  - (ix) Existing and finished site levels and proposed finished floor levels;

REASON The approval is in outline only.

2. That the indicative layout and elevational plans submitted along with the application are for information purposes only and shall not be treated as forming part of the issued consent.

REASON The approval is in outline only.

3. 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 dwellings.

REASON To ensure that adequate drainage is provided.

4. During construction, the developer of the site shall ensure that adequate and continuing measures are taken 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 interest of public and road safety and residential amenity.

5. 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.

6. No construction work, site clearance or preparation works shall take place before 08.00 hours and after 17.00 hours on Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

7. No development shall begin on site with the exception of site investigative works until a scheme to deal with the contamination arising from the long term usage of the site has been submitted to and approved in writing by the Planning Authority. The scheme shall contain details of proposals to deal with contamination to include:

1. The nature, extent and type(s) of contamination on the site;
2. A site specific risk assessment of all relevant pollutant linkages.
3. Remediation measures to treat/remove contamination to ensure the site is fit for the use proposed;
4. Measures to deal with unsuspected contamination discovered during construction works;
5. Condition of the site on completion of decontamination measures;
6. Details of measures to remove all pipes, interceptor and underground storage tanks on site as a result of the petrol filling station use and remedial measures to fill the ground levels facing their removal.

Before any residential unit is occupied the measures to de-contaminate the site shall be fully implemented as approved by the Planning Authority.

REASON In the interests of residential amenity and public safety.

9. On completion of the remedial works approved under the terms of Condition 8 above, and prior to any of the residential units being occupied, the developer shall submit a report which shall 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.

10. The details to be submitted under Condition 2 above shall present a development of the highest standard in terms of design. They shall reflect the character of the existing properties in London Road and the character of adjoining sandstone listed buildings and shall provide a design which integrates well into the street setting, in terms of height, scale, choice of materials and colour, and shall provide both a functional and physical link between the new building and surrounding area. The height of the proposed building shall be compatible with the height of surrounding buildings on London Road the configuration of adjoining roof surfaces and the impact of the proposal on the skyline and the adjoining properties on London Road.

REASON To ensure that the development does not conflict with its surroundings in the interests of the visual amenity and character and appearance of the adjacent listed buildings and the nearby London Road Outstanding Conservation Area.

11. Details to be submitted under Condition 2 (i) and (ii) shall ensure that the development takes cognisance of the storage needs of a 3-bin recycling system.

REASON To ensure that adequate waste storage and disposal facilities exist in the interests of the amenity of the area and Council Waste Management Policies.

12. The access details to be submitted further to Condition 1 above shall be compatible with the Council's proposed introduction of road layout changes on London Road.

REASON In the interests of road safety.

## NOTES

1. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
2. The developer shall make early contact with Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. Scottish Water require this development to be drained in accordance with the recommendations contained in the CIIA manual on SUDS. Early contact with Scottish Water is also recommended relative to connection to the public water and sewerage systems.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements 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.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**