

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 20 AUGUST 2004

**04/0561/FL: PROPOSED REPLACEMENT OF SINGLE PLANE OF SLATE
ROOF WITH METAL CLADDING AND INSTALLATION OF 4 VELUX
WINDOWS
AT 22-26 NELSON STREET, KILMARNOCK
BY W & M WHITE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This planning application is retrospective in nature. The applicants have clad the western plane of the pitched roof in a light grey roof cladding and have also formed four velux windows of modern proportions affixed to the plane of the roof. The other plane of the roof remains natural grey slate.

1.2 Listed Building consent is not required as the property was listed after the works were undertaken.

2. RECOMMENDATION

2.1 It is recommended that the planning application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report, the application is considered to be contrary to the Development Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 of this report there are material considerations relevant to this application. None of these considerations warrant the approval of this application. The works that have been undertaken are without any regard to the excellent historic and architectural character of the existing building and the Outstanding Conservation Area. The works are prominent when viewed from a main arterial route through the town centre and have an adverse effect on the visual amenity and quality of this area which is generally of very high environmental standard. The consultation responses received from the amenity

bodies reflect these concerns and noting the advice contained within Historic Scotland's Memorandum of Guidance, it is considered that the development is unacceptable and overall damaging not only to the building but to the surrounding Outstanding Conservation Area.

3.3 As indicated in the Planning History Section (para 6.6 of the report), an Enforcement Notice regarding the unauthorised works was not appealed to the Scottish Ministers. The Procurator Fiscal dropped a subsequent prosecution on the basis of an undertaking from solicitors acting for the applicants offering to carry out appropriate repairs. The applicants thereafter did not honour this undertaking.

CONTRARY DECISION NOTE

Should the Committee agree that the applications be approved contrary to the recommendations of the Head of Planning, Development and Building Standards then the application would not require to be referred to the Development Services Committee as this would not be a significant breach of 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 Planning Authority.

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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 because it is recommended that planning permission be refused.

2. APPLICATION DETAILS

2.1 **Site Description:** This application site relates to a Category B listed building also forming part of a Group B listing with buildings in College Wynd, Bank Street and Nelson Street located within the John Finnie Street and Bank Street Outstanding Conservation Area. The building was listed on 01 August 2002 after the development which is the subject of this application was carried out. The site lies within Kilmarnock's designated town centre and is surrounded by other (group) A, B and individual C listed buildings. The application site comprises a red facing brick building with red sandstone window band details and the applicants have confirmed that they have an ownership interest in the building at 58 to 62 Bank Street which is a red sandstone building with natural grey slate roof on Bank Street and red facing brick on Nelson Street. Both the buildings are linked via a flat roof section. The building which is the subject of this application can be accessed internally from the Bank Street property and accommodates commercial businesses. The site is bound to the north by the Wilson's furniture building that was refurbished a couple of years ago, to the east by an access lane to the Wilson's service yard and a modern red facing brick building beyond. To the south lies Nelson Street beyond which is a modern 2 storey building with commercial units on the ground floor and residential properties above. This property is finished in red blockwork, white render and grey roof tiles and to the west lies the applicants' property at Bank Street and other traditional properties. The new modern building to the east of the site lies outwith the Outstanding Conservation Area boundary.

2.2 **Proposed Development:** This planning application is retrospective in nature. The applicants have clad the western plane of the pitched roof in a light grey roof cladding and have also formed four velux windows of modern proportions affixed to the plane of the roof. The other plane of the roof remains natural grey slate.

2.3 Listed Building consent is not required as the property was listed after the works were undertaken.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Historic Scotland offer informal comment and advise that they would normally recommend that authentic traditional materials are used for repairs or alterations. Whilst it is understood that the roof pitch is not visible from the junction of Bank Street/Nelson Street it is noted that it is visible from the south end of John Finnie Street. This area is a key part of the town in terms of views to the town centre, where buildings or parts of buildings are visible within this part of town from key viewpoints. Careful attention should be paid to the specifications of materials used in the repair and alteration of these buildings to ensure that the traditional character of that building and the wider historic town centre is preserved or enhanced.

Noted. These comments are in accordance with the views of this Division as detailed in Sections 5 and 6 of this report. It is not considered that the roofing system used is appropriate as it is modern in design and materials and is not appropriate to the age of the building and to the character of the Conservation Area.

3.2 The Scottish Civic Trust advise that they object to this application and, having viewed the works on site, are most concerned that the site is very visible from the bottom part of Bank Street and the junction of St Marnock Street and John Finnie Street which is one of the main thoroughfares of Kilmarnock. Objection is therefore offered to the use of the metal cladding as this is detrimental to the character of the Conservation Area and it is recommended that the Council undertake enforcement action to have the roof re-slatted with natural slates of an appropriate texture for the area. No objection is offered to the velux windows which are not visible from the vantage point detailed above but if visible from high vantage points would be less noticeable if set amongst slate.

Noted. It is not considered that the material is appropriate and this Division is of the opinion that the roofing material is wholly intrusive and not a suitable alternative to natural slate. These comments are in line with the Division's concerns as outlined in Sections 5 and 6 of this report.

3.3 The Architectural Heritage Society for Scotland advise that they consider the proposed change of material to only be acceptable if it will not be seen as an intrusive contrast and to prevent this a dark colour coating is required. The colour used is too light toned an alternative to the original slate and could also establish a precedent.

Noted. These concerns are in line with those of this Division.

3.4 Bonnyton Community Council have not responded to their consultation at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 No letters of representation have been received relative to this application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 There are no policies contained within the AJSP that are relevant to this application.

Adopted East Ayrshire Local Plan

5.3 Policies ENV 2, ENV 4 and ENV 7 seek to ensure that all development within or affecting the setting of a Conservation Area or the appearance/setting of a Listed Building is sympathetic to the area or building, in terms of layout, size, scale, design, siting, materials and colour of finish. It is also stated that the Council will encourage the retention and re-use of listed buildings. The policies state that proposals should contribute positively to the character or appearance of the area and have due regard to architectural and historic qualities of the area or building.

5.4 Policy ENV 7 states that all developers are expected to comply fully with the Council's Design Guidance in order to ensure high standards of design for new development. The Design Guidance (No. 4) which relates to listed

buildings and buildings within Conservation Areas, states that roofs shall be finished in materials appropriate to the architectural style and period of the property to match the original roof finish of the existing building.

The above policies seek to protect the historic and architectural resources that East Ayrshire has for the benefit and enjoyment of present and future generations. These policies were established so that not only can existing resources be protected, but so that new development is appropriate and of a high standard of design.

The development that has been undertaken is not considered to comply with these policies. The works have introduced a modern roofing material that is neither appropriate to the age nor character of the building and Outstanding Conservation Area. It is a material that would be considered acceptable on modern industrial/commercial building but not one which is located within an area that accommodates the prime architectural heritage of Kilmarnock. The roofing system by virtue of material, colour and appearance is wholly unsympathetic and incongruous and the velux rooflights are of modern proportions and fixed above the plane of the roof, not resembling the more traditional sky/roof lights that are often used in such properties. It is this Division's opinion that to grant planning permission for such insensitive works would be to the extreme detriment of the Outstanding Conservation Area. The site is of particular prominence in terms of its visibility from the arterial traffic route through Kilmarnock and will have an unduly detrimental effect to the Outstanding Conservation Area.

In relation to the Council's Design Guidance, this has been purposely formulated to ensure a high standard of design for development. The purpose is not to restrict development but to ensure that a development is to the highest standard, in keeping with and sympathetic to the character of the area. This scheme is totally unacceptable and is contrary to the Council's Design Guidance by virtue of its modern characteristics.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant in the determination of the application are the consultation responses, detailed in Section 3 of this report, Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas and the planning history of the site.

Consultation Responses Received

6.2 The consultation responses are noted and whilst some issues raised are not significant the negative responses from Historic Scotland and The Scottish Civic Trust are material considerations.

Memorandum of Guidance

6.3 Historic Scotland's Memorandum of Guidance states that slated roofs have a special visual quality which contribute significantly to the character of many towns and villages as well as to the architectural quality of individual buildings and should be retained.

6.4 The Memorandum also states that rooflights can be significant elements in the external design of buildings. It may be acceptable to provide additional skylights although these should be restricted in size and number and should relate to the fenestration of the building.

6.5 Conservation Areas are also covered by the Memorandum and in designating a Conservation Area, it is the intention to preserve the character or historic interest of that area created by individual buildings and open spaces in addition to their relationship with one another. There is no standard specification for such areas although the legislation defines them as "areas of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance". Whilst Conservation Areas are often centred on listed buildings this need not be so as Conservation Areas can relate to pleasant groups of unlisted buildings, the street pattern, or features of architectural interest. Once an area is designated a Conservation Area, it becomes the duty of the Planning Authority to pay special attention to the character and appearance of the area when exercising their powers under the planning legislation.

At no time during the enforcement case which led up to submission of this application have the applicant's justified satisfactorily the formation of the cladding. The applicant's agent at that time advised that the work was undertaken to make the roof watertight and prevent slates falling onto the footpath below as previous attempts to repair the roof were unsuccessful. No attempt however was made to contact the Planning Authority to ascertain the need for planning permission prior to carrying out the work and the applicant's agent disputed the location of the site within the Outstanding Conservation Area.

The Memorandum clearly advises against the replacement of slate roofs with other materials and in this respect the proposal is contrary to the Memorandum. The velux windows that have been

installed cannot be termed as traditional forms of 'rooflights' or skylights owing to their proportions and materials. The velux windows are of modern design and manufacture and are essentially of square bulk proportions that sit proud of the plane of the roof.

The site definitely lies within the John Finnie Street and Bank Street Outstanding Conservation Area. The area was designated as separate Conservation Areas in 1985 and were amalgamated as one Conservation Area in 1994 although John Finnie Street had been designated as 'Outstanding' at a previous date. Whilst the site lies to the eastern boundary of the Outstanding Conservation Area there is no dubiety as to its location. The area was originally designated as a Conservation Area because it comprises the oldest and most historic area of Kilmarnock and due to the exemplary quality of the architectural buildings. The works that have been undertaken are not visible from every aspect although they are particularly prominent from the major arterial route junction of St Marnock Street/Dundonald Road/John Finnie Street and Portland Street which is in essence a gateway to the Outstanding Conservation Area. The overall area provides a visual amenity for the enjoyment of the public and is a positive asset to the town. It is considered that this development has a detrimental impact on that amenity.

The building is now listed although was not at the time of the works being undertaken, hence no application for listed building consent has been requested. The works would nevertheless have required planning consent at that time. The building's location within the Outstanding Conservation Area means that regardless of listing, it is of significant historic/architectural value to Kilmarnock. Taking into account the details on the listing issued by Historic Scotland, the property was originally occupied by Smith Brothers Printers at which time the roof was glazed. During the late 1980s or early 1990s the glazed roof was replaced by slate.

Planning History

6.6 The works to the roof were reported to this Division by a Member of the public in January 2002. The applicants at that time were contacted by the Division's Enforcement Officer and advised of the need for planning permission. They were also advised of the Division's reservations about the suitability of the works undertaken for the reasons stated in Section 5 and paragraph 6.3 of this report. Various notices were served in order to establish ownership of the property and owing to the complexities of shared ownership, this took some time. A planning application was also eventually submitted for the works although the applicant failed to submit sufficient information to validate the application and it was eventually returned to the applicant's agent but not before

the Division had made several attempts to have the required information submitted. An Enforcement Notice was then served requiring the removal of the cladding and the return of the roof to natural slate. This Notice was not appealed to the Scottish Ministers and the matter was then referred to the Procurator Fiscal. Prior to the case coming to Court however a compromise was offered by the applicants' Solicitor which resulted in proceedings being dropped by the Procurator Fiscal. This compromise was based on the unauthorised works being removed and/or a complete schedule of proposed repairs being submitted to the Council for approval. Unfortunately the applicants did not engage further with the Planning Authority after the proceedings were dropped.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 The works relating to this application were previously subject to an Enforcement Notice that had been reported to the Procurator Fiscal. Should this application be refused, as is recommended, steps will be taken by the Planning Development and Building Standards Division to enforce the Committee's decision.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of the report, the application is considered to be contrary to the Development Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 of this report there are material considerations relevant to this application. None of these considerations warrant the approval of this application. The works that have been undertaken are without any regard to the excellent historic and architectural character of the existing building and the Outstanding Conservation Area. The works are prominent when viewed from a main arterial route through the town centre and have an adverse effect on the visual amenity and quality of this area which is generally of very high environmental standard. The consultation responses received from the amenity bodies reflect these concerns and noting the advice contained within Historic Scotland's Memorandum of Guidance, it is considered that the development is unacceptable and overall damaging not only to the building but to the surrounding Outstanding Conservation Area.

8.3 As indicated in the Planning History Section (para 6.6 of the report), an Enforcement Notice regarding the unauthorised works was not appealed to the

Scottish Ministers. The Procurator Fiscal dropped a subsequent prosecution on the basis of an undertaking from solicitors acting for the applicants offering to carry out appropriate repairs. The applicants thereafter did not honour this undertaking.

9. RECOMMENDATION

9.1 It is recommended that the planning application be refused for the reasons indicated on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the applications be approved contrary to the recommendations of the Head of Planning, Development and Building Standards then the application would not require to be referred to the Development Services Committee as this would not be a significant breach of policy.

Alan Neish
Head of Planning, Development and Building Standards

11 August 2004
(FMF/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Certificates/Notices.
3. Statutory Consultations.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan with Modifications.
7. Memorandum of Guidance on Listed Buildings and Conservation Areas, (Historic Scotland).

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0561/FL

Site of Proposal:	22-26 Nelson Street KILMARNOCK KA1 1BD
Nature of Proposal:	Proposed Replacement of Single Plane at Slate Roof with Metal Cladding and Installation of 4 Velux Windows
Name & Address of Applicant:	W & M White 22-26 Nelson Street KILMARNOCK KA1 1BD
Name & Address of Agent:	Graham & Sibbald 18 Newton Place GLASGOW G3 7PY

DPOs Reference: FMF/MMM

The above FULL application should be refused on the following grounds:-

1. The proposed development is contrary to Policies ENV 2 and ENV 4 of the Adopted East Ayrshire Local Plan in that it represents an inappropriate and incongruous form of development within the John Finnie Street and Bank Street Outstanding Conservation Area which would have an adverse effect on the general historic and architectural character and the visual amenity of the Outstanding Conservation Area and the listed buildings surrounding the site.
2. The proposed development is contrary to Policy ENV 7 of the Adopted EALP because it fails to comply with the requirements of the Council's Design Guidance in that the roofing cladding used is not of a material and external finish appropriate to the architectural style and period of the property and as such is out of keeping with the character of the John Finnie Street and Bank Street Outstanding Conservation Area.

3. If approved, the proposed development would set an undesirable precedent which could encourage further similar applications for proposals that would have an adverse effect on the amenity and character of the Outstanding Conservation Area and nearby listed buildings.

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