

CENTRAL LOCAL PLANNING COMMITTEE: 04 FEBRUARY 2005

**04/1226/FL: PROPOSED ERECTION OF 3 NO. TERRACED
TOWNHOUSES AT 17-19 THOMSON STREET, KILMARNOCK
BY MR T W McCULLOCH**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of 3 no. one-and-a-half storey terraced town-houses finished in cream roughcast, facing brick and concrete roof tiles. The principal elevation faces the existing flatted dwellings at 35-37 Witch Road while the upper-floor windows are velux rooflights to the southern elevation and wall-head dormer windows to the northern elevation. The application site is proposed to be accessed via the existing access to the lock-up garages that are to be demolished to provide 6 no. vehicle parking spaces.

2. RECOMMENDATION

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

3. CONCLUSIONS

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

3.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received raise no adverse comments and the concerns of objectors in relation to road safety have not been echoed by the Roads Division. With regard to the objectors other concerns, it is considered that the development is of an appropriate size, scale and design that is compatible with the character of the surrounding area. The development has been designed and sited to minimise its impact on the amenity of adjacent properties.

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 Planning Authority.

EAST AYRSHIRE COUNCIL

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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 subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a vacant derelict area of land that consists of 10 derelict lock-up garages and an area of approximately 374 square metres of the private rear garden ground associated with the existing dwelling house at 17 Thomson Street. The site is bound on all sides by residential properties, with the majority of such dwellings on Thomson Street being single or one and a half storey in height and of traditional design, finished in natural or painted sandstone. Immediately to the south of the application site there is a two storey more modern flatted development that directly overlooks the application site. The site is screened by a 2 metre high brick wall to the western boundary and by a 1.8 metre high open boarded fence, existing mature hedging and a 2 metre high brick wall to the south and by mature hedging and fencing to the northern and eastern boundaries of the application site.

2.2 **Proposed Development:** Full planning consent is sought for the erection of 3 no. one-and-a-half storey terraced town-houses finished in cream roughcast, facing brick and concrete roof tiles. The principal elevation faces the existing flatted dwellings at 35-37 Witch Road while the upper-floor windows are velux rooflights to the southern elevation and wall-head dormer windows to the northern elevation. The application site is proposed to be accessed via the existing access to the lock-up garages that are to be demolished to provide 6 no. vehicle parking spaces.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have no objections subject to conditions. They require that the new road junction to be formed to their standards.

Noted.

3.2 Transco have no adverse comments to make regarding the proposed development.

Noted.

3.3 Scottish Water, The Scottish Environment Protection Agency and the North West Kilmarnock Community Council have not responded to their consultation letter at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 There are 21 objectors to the proposed development and their main grounds of objection are detailed as follows.

4.2 At present the whole of the back garden area between Thomson Street and William Street is a “green belt” area. Every garden has grass, trees and bushes and the area therefore has a “country” feel to it. This development takes that away and goes against the environment of the area completely.

The area is not formally designated as “green belt” and the application site is located within the settlement boundary of Kilmarnock. The applicant has shown on the plans that the existing hedging on the northern and southern boundaries is to remain and an appropriately worded condition can be attached to any grant of planning consent to ensure the retention of these hedgerows. The proposed siting of the houses will not have a detrimental impact on the amenity of the adjacent properties.

4.3 Neighbours will be looking at 8.0 metres of concrete monstrosity at the back of their garden, obscuring views of the other gardens in the area.

The eastern elevation of the proposed dwellings is located 1 metre at the closest point and 1.6 metres at the furthest point, away from the common boundary between the application site and rear boundaries of 22-28 William Street. The proposed development is some 18 metres away, at the closest point, from the rear elevations of the dwellings on William Street. There are no windows on the side elevation of the proposed townhouse overlooking the properties on William Street.

4.4 There is the potential for noise pollution from the prospective inhabitants of the dwellings as there is a great possibility of loud music being played during the day and evening in addition to the constant comings and goings with and without cars. If the proposals are to be sold on a buy-to-let basis this could attract an undesirable element and further compound the perceived problems of noise pollution.

The possibility of the inhabitants of the proposed dwellings playing loud music and undesirable residents and/or tenants creating noise pollution are purely speculative and not material planning considerations in the determination of this application. Whether the proposed development is to be for rented or private accommodation is also not in itself a material planning consideration. It would be a matter for Environmental Health to pursue where legislatively appropriate any noise complaints arising from any occupiers of the dwellings if planning permission is granted.

4.5 The objectors claim to have unsubstantiated information that the owner of Nos. 17-19 Thomson Street constructed a basement at his property without planning permission or a building warrant and have concerns regarding the safety of the proposed development in relation to the weight of the construction traffic and whether the foundations would be safe in order to support this townhouse development.

The construction of a basement at 17 Thomson Street does not form part of this application and therefore is not a material planning consideration. The structural stability of the site in order to carry construction traffic and foundations of the proposed development are matters that would be addressed by the Building Standards Section.

4.6 The proposed development will have a detrimental impact on the value of their property.

The impact of the proposed development on the value of the adjacent property is not a material planning consideration in the determination of this application.

4.7 The evening sun will be blocked from the rear garden of adjoining property removing residents' enjoyment of the evening environment, resulting in a substantial part of their garden being cast into shadow for most of the day.

The sun rises in the east and sets in the west with the rear gardens at Nos. 24-28 William Street being west facing. The proposed development may have some impact on the sun reaching the rear gardens of the properties in William Street in

late evening. However, it is not of a significant level that would justify a recommendation of refusal of the proposed development.

4.8 There is very little room at present for manoeuvring or parking cars on Thomson Street. The probability of another six, or more, cars would, the objectors believe, exacerbate the situation and constitute a safety hazard for the inhabitants and children in Thomson Street.

East Ayrshire Council's Roads and Transportation Division have no adverse comments to make on the proposed development in terms of road safety as detailed in Section 3.1 of this report.

4.9 The overall appearance of the proposed development will not be in-keeping with the surrounding red sandstone properties dating from 1910.

The proposed development is to be finished in concrete roof tiles, cream roughcast and smooth rendered window bands. It is considered that the external materials are in keeping with the surrounding dwellings given the variation of styles and external materials used in the immediate vicinity. The proposed dwellings are one-and-a-half storeys in height and are therefore considered to be in-keeping with the majority of dwellings on Thomson Street.

4.10 The proposals will interfere with the objector's privacy as the proposed development will be located only a few metres from their home. The development will face onto Witch Road, directly looking onto the objector's home from their front windows.

The window to window distance between the proposed houses and the existing houses varies from approximately 17 metres at the furthest point to approximately 14 metres at the closest point. The location of the windows at the existing flats prevents any direct window to window overlooking while a condition can be attached to any grant of planning consent to retain the existing 2 metre high hedge on the southern boundary of the application site to afford further privacy to residents of 35-37 Witch Road. The upper-floor windows are velux style windows, thus preventing any direct overlooking from these windows to 35-37 Witch Road.

4.11 The owners/tenants of the dwellinghouse closest to 24 William Street could apply for planning consent to install a window on the gable, exacerbating the detrimental impact of the objector's privacy. If consent is granted a condition should be inserted to prevent such window(s) being installed.

The installation of a window in this location would not normally require planning consent although a condition can be placed on any grant of planning consent removing permitted development rights under Class 1 of The Town and Country Planning (General

Permitted Development) (Scotland) Order 1992. This would ensure that any such window would require planning consent.

4.12 The objectors' believe that the development is a money making exercise by the applicant with no thought for his fellow neighbours, who believe it wholly inappropriate to squeeze such a development onto this site by giving up three quarters of his back garden.

The developers financial gain or otherwise from this potential development is not a material planning consideration in the determination of this application. The existing lock-up area is currently derelict and in a poor state of repair while each of the proposed dwellings and the donor house are proposed to have private garden ground in excess of the minimum standards as detailed in the East Ayrshire Local Plan.

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).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 It is not considered that there are any relevant policies in the AJSP in terms of the determination of this application.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policy RES4 encourages the sympathetic residential development of gap, infill or other redevelopment sites which is to be assessed against the following criteria

- (i) impact on the surrounding natural and built environment and adjacent uses;

This proposal is for housing development and is located within a residential area and therefore is acceptable in principle.

- (ii) transportation and infrastructure implications;

East Ayrshire Council Roads and Transportation Division have no adverse comments to make on this development.

- (iii) compatibility with surrounding densities and housing types; and

To the north and west of the application site on Thomson Street and to the east of the application site on William Street there are one/one and a half storey detached and semi-detached dwellings of a traditional design. It is considered the proposed development is in keeping in terms of size, scale and design with the surrounding dwellings.

- (iv) compliance with the Council's Development Promotion Design Guidance.

The EAC Design Guidance states that the design of infill or gap site residential development shall recognise and reflect the scale design features, rhythm of doors and windows, storey height, density and materials of surrounding buildings. Whilst there is an existing flatted development to the south of the application site it is considered that the proposals relate more to the traditional single and one and a half storey dwellings at Thomson Street. The proposals are considered to be in keeping with these low-density traditional dwellings.

5.4 Policy RES 5 is supportive of the sub-division of existing house curtilages for the development of dwelling houses subject to the following criteria being met:

- i) the proposal is fully in-keeping with the existing residential character and appearance of the area within which it is located;
- ii) the proposal meets all the design requirements of the Council and does not create unacceptable damage to the amenity of surrounding properties; and
- iii) acceptable levels of privacy are maintained to neighbouring properties and to the new housing development.

It is considered that the proposed one-and-a-half--storey terraced dwellings take cognisance of the layout and character of the existing residential area as the size and density of the development and the external finishes are in keeping with the traditional single and one and a half storey existing dwellings on Thomson Street. There is a modern flatted development immediately to the south of the application site. However, the proposed development has a more logical physical relationship to the properties on Thomson Street as it lies in the confines of the curtilage of 17-19 Thomson Street and it is physically separated by a solid boundary treatment from the southern boundary.

5.5 Policy ENV7 of the EALP is relevant and advises that all developers will be expected to fully comply with the Council's Design Guidance and policy documents relating to and advising on the particular type of development proposed. The design guidance for new residential development states that

house types for individual or small-scale residential developments must reflect and respect the built form of the surrounding area by reflecting the existing buildings in terms of design, storey height, scale, density and external finishes. Furthermore, the Design Guidance also states that any new housing development shall not result in unacceptable overlooking or have a visually intrusive

As detailed under Policy RES5 of the Adopted EALP in Section 5.2 above, it is considered that the proposed development relates to the existing residential area and the external finishes are considered acceptable as there are a wide variety of external finishes in the immediate area. There is a more modern flatted development immediately to the south of the application site, but it is considered that the proposed development should reflect the scale and size of properties located on Thomson Street arising from the physical characteristics of the site and the functional association with the more traditional dwellinghouses on Thomson Street.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received which are addressed in Section 3 of this report, the letters of objection addressed in Section 4 of this report and the planning history of the site.

Consultation responses and representations received

6.2 The consultations and representations received are addressed in Sections 3 and 4 of the report, neither of which indicate that the application should be refused. The objectors concerns regarding road safety have not been echoed by the Roads Division. Their concerns regarding overlooking, loss of amenity and design of the proposed development are not of such significant weight as to justify a recommendation of refusal.

Planning History

6.3 04/0385/FL Proposed 6 No. One and Two Bedroom Flats on the same site as this present application under consideration.

This application was withdrawn by the applicant prior to determination.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

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

8.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received raise no adverse comments and the concerns of objectors in relation to road safety have not been echoed by the Roads Division. With regard to the objectors other concerns, it is considered that the development is of an appropriate size, scale and design that is compatible with the character of the surrounding area. The development has been designed and sited to minimise its impact on the amenity of adjacent properties.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated 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, 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

25 January 2005 (BD/SA)
FV-DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of objection
5. Adopted East Ayrshire Local Plan
6. Approved Ayrshire Joint Structure Plan.
7. Application No. 04/0385/FL.

Anyone wishing to inspect the above papers please contact Barry Douglas on 01563 576770.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1226/FL

Site of Proposal: 17-19 Thomson Street
KILMARNOCK

Nature of Proposal: Proposed 3 No. Terraced Town Houses

Name & Address of Applicant: T W McCulloch
Gorse Hill
Craigie Village
KILMARNOCK
KA1 5LY

Name & Address of Agent: Darley Hay Partnership
54A Sandgate
AYR
KA7 1DX

DPOs Reference: BD/SA

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

1. Notwithstanding the submitted plans hereby approved details of the formation of a junction onto Thomson Street shall be submitted to and approved by the Planning Authority in writing prior to the occupation of any dwellinghouses hereby approved.

REASON In the interests of road safety.

2. Notwithstanding the submitted plans, details and samples of all external materials shall be submitted to and approved by the Planning Authority before any development commences on the site and shall be implemented on site as approved thereafter.

REASON In the interests of visual amenity.

3. 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.

4. Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site.

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

5. The existing hedge along the northern and southern boundaries of the site shall be retained and maintained thereafter to the satisfaction of the Planning Authority.

REASON In the interests of residential amenity.

6. Notwithstanding the submitted plans hereby approved, a 1.8 metre close boarded fence shall be erected on the eastern boundary of the application site prior to the occupation of any dwellinghouses and maintained at all times thereafter.

REASON In the interests of residential amenity.

7. Notwithstanding the submitted plans, a landscaping scheme for the communal areas and boundaries shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall be implemented not later than the next appropriate planting season after the occupation of the first house and maintained thereafter to the satisfaction of the Planning Authority.

REASON In the interests of visual and residential amenity.

8. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order or enactment replacing this) no windows shall be constructed on the eastern elevation of the end dwellinghouse.

REASON To prevent direct overlooking to adjacent residential properties.

9. The developer of this site shall ensure that during the development phase, adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other materials carried from the site.

REASON In the interests of the amenity of the area and road safety.

10. Notwithstanding the submitted plans hereby approved, details of the proposed boundary treatment to the western and north-western boundary of the application site should be submitted to and approved by the Planning

Authority prior to the commencement of development on site and implemented as approved thereafter.

REASON In the interests of visual amenity.

NOTES

1. The applicant shall make early contact with Scottish Water as the applicant must make a separate application to Developer Services for permission to connect to the public sewage system. Scottish water can be contacted on 0845 601 8855.

2. It is recommended that the applicant makes early contact with the East Ayrshire Council Roads and Transportation Division, Greenholm Street, Kilmarnock regarding the formation of a junction onto Thomson Street. East Ayrshire Council roads can be contacted on 01563 576359.

3. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

4. The applicant should make early contact with TRANSCO as the development may affect Transco apparatus in the area. Transco can be contacted on (0141) 418 4093.

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