

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 05 MAY 2006**

**05/1273/FL: PROPOSED ERECTION OF 44 FLATTED DWELLINGS  
AT FORMER CASH AND CARRY SITE, NEW MILL ROAD KILMARNOCK  
BY DAWN HOMES LTD/BOOKER CASH AND CARRY**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Full planning permission is sought for the erection of 44 no. 2 bedroom flats of two storeys in height forming five blocks, three of which are to the southern extremity of the application site with two blocks to the north of the site. The proposed development has a dual frontage to both New Mill Road and the River Irvine and is proposed to be finished in buff and terracotta facing brick and grey concrete interlocking tiles to the roof. The application site also includes car parking for 72 vehicles, bin storage areas and private open space.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application should be approved subject to conditions indicated on the enclosed sheets and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily conducted a Legal Agreement with the applicant's in respect of a contribution to the Sports, Leisure and Recreation Fund.**

#### **3. CONCLUSIONS**

3.1 As is indicated in Section 5 of the report the application is considered to accord with the policies of 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 at Section 6 of the report there are material considerations relevant to this application. The concerns of objectors are noted, however, they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns have not been supported by the Roads Division. 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. The proposed development will remove a vacant derelict site and replace it with a modern residential development which has taken advantage of its riverside location.

## **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.**

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### 05/1273/FL: PROPOSED ERECTION OF 44 FLATTED DWELLINGS AT FORMER CASH AND CARRY SITE, NEW MILL ROAD, KILMARNOCK BY DAWN HOMES LTD/BOOKER CASH AND CARRY LTD

#### 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 extends to approximately 1.917 acres and comprises the site of the former Booker Cash and Carry. The application site is bound by residential dwellings and the former Anderson and Innes Joinery site presently being developed for residential development to the north and by the River Irvine immediately to the south. To the west of the application site there are a number of light industrial/commercial buildings which have frontages to New Mill Road and the Welbeck Roundabout, while to the east of the application site there is landscaped open space with the Cluarankwai Judo Club building and Scott Ellis Playing Fields beyond.

2.2 **Proposed Development:** Full planning permission is sought for the erection of 44 no. 2 bedroom flats of two storeys in height forming five blocks, three of which are to the southern extremity of the application site with two blocks to the north of the site. The proposed development has a dual frontage to both New Mill Road and the River Irvine and is proposed to be finished in buff and terracotta facing brick and grey concrete interlocking tiles to the roof. The application site also includes car parking for 72 vehicles, bin storage areas and private open space.

## 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Environmental Health, Licensing and Community Safety Division have no objections to the application subject to conditions relating to the decontamination of the site including the completion of a comprehensive contaminated land investigation and the removal of disused underground petrol tanks.

***The advise of the Environmental Health Division can be addressed by conditions regarding the treatment of ground contamination and the removal of disused underground petrol tanks.***

3.3 Transco, Powersystems, Piersland Bentinck Community Council have no adverse comments to make regarding the proposed development.

***Noted.***

3.4 The Scottish Environment Protection Agency (SEPA) have advised that surface water shall be treated by way of a Sustainable Urban Drainage System. Possible contamination of the site should be investigated. They would recommend that further investigation of the potential flood risk is carried out in line with the guidance provided in SPP7 Planning and Flooding. SEPA would expect all necessary mitigation measures to be taken during the construction phase of the project to ensure that the pollutants typically associated with this aspect of the works do not enter the watercourse adjacent to the site.

SEPA would advise the applicant that if any engineering works are envisaged in and around the River Irvine, then the applicant must contact SEPA to clarify if these works will require to be assessed in accordance of the terms of the Controlled Activity Regulations.

***Conditions and notes can be attached to any grant of planning permission with regard to treating surface water by way of a SUD system and ground contamination issues. In terms of flooding the Council's Roads and Transportation Division who have the responsibility for flooding have no adverse comments to make regarding the proposed development.***

3.5 The East Ayrshire Council Roads and Transportation Division have no objections to the proposed development in terms of their traffic and flooding responsibilities.

***Noted.***

3.6 Scottish Water objects to this application however, it will be deemed to be withdrawn if a condition is attached to any grant of planning consent requiring that no development be commenced until evidence is submitted to the Planning Authority that an agreement has been reached by the applicant and Scottish Water for the provision of a drainage and/or water scheme. A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water supports the principal of a sustainable urban drainage system (SUDS) and the developer should consider utilising this in the surface water drainage design.

***An appropriately worded note can be attached to any grant of planning permission to ensure that the applicants are aware of the need to agree drainage arrangements with Scottish Water. A condition and notes can be attached advising the applicant of the requirement to treat surface water by a SUDS System.***

#### **4. REPRESENTATIONS**

4.1 There are 2 objectors to the proposed development, including one from Scottish Water detailed in 3.6 above. A summary of the grounds of the third party objection is presented below.

4.2 The rear of their property will be overshadowed by block 4 of the development.

***The height of the proposed block is 8.8 metres and the average approximate height of the properties in Nursery Gardens is 8.4 metres. There is at least 18 metres between the property at Nursery Gardens and the proposed block. Therefore it is considered that there will be no overshadowing effect created as a result of this development.***

4.3 The living area windows of Block 4 will overlook their garden.

***In relation to the proposed block located to the north eastern corner of the application site, the window to window distances greatly exceed the normally utilised minimum standard of 18 metres and therefore it is considered that the proposed development will not impact significantly on their garden.***

4.4 The height, position and overall layout of block 4 means that it cannot be anything other than oppressive and have an adverse impact on their home and privacy.

***It is not considered that the height of the proposed block will be oppressive in respect the neighbouring properties and will not have an adverse impact on the adjacent properties in terms of privacy or loss of light.***

4.5 It appears that the developer is extending the site beyond the existing retaining wall into the pathway/River Irvine embankment area. The retaining walls have long served as flood barriers and we cannot determine how the developer intends to suitably replace the flood barriers and provide a secure pathway/embankment.

***The proposed development is not extending further than the existing development and is not extending into the pathway/River Irvine embankment area. As part of this scheme the developer will be upgrading the public footpath along the River Irvine.***

4.6 The type of development proposed will increase the vehicular and pedestrian traffic and two additional vehicle access points a few metres from the busy Nursery Avenue/New Mill Road junction where there has been a substantial increase in traffic flow. There have been numerous accidents.

***East Ayrshire Council Roads & Transportation Division have no adverse comments to make on the proposals in relation to the increase in vehicular traffic on New Mill Road/Nursery Avenue or in relation to traffic congestion at the roundabout on Welbeck Street.***

4.7 There is bound to be an increase in on-street parking.

***A total of 72 car parking spaces is proposed within the site which level of parking is supported by the Roads Division.***

## **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 are 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).

### Approved Ayrshire Joint Structure Plan

5.2 It is not considered that there are any policies in the AJSP particularly relevant to the development of the site within the Kilmarnock settlement boundary and therefore greater weight must be attached to the EALP.

### Adopted East Ayrshire Local Plan (EALP)

5.3 Policy IND 8 states that proposals for alternative uses of land or premises currently or formerly used for industrial purposes shall be considered acceptable subject to a set of three criteria being met:

- (i) the proposed use not being detrimental to surrounding established uses:

***It is considered that residential use at this location would not be detrimental to the surrounding uses; on the contrary it would re-develop a redundant commercial site and bring it back into beneficial use. The surrounding use is predominantly residential in this area and further residential development is considered acceptable.***

- (ii) the proposal meeting with the requirement of all other relevant Local Plan policies; and

***The proposal meets with all other relevant Local Plan policies.***

- (iii) the existence of alternative industrial or business land or premises with potential for future employment use within the settlement concerned.

***There is considered to be an adequate amount of alternative industrial/business land in Kilmarnock.***

5.4 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

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

***This proposal is for housing development and is located within an area of mixed residential/commercial/light industrial uses. The site is largely surrounded by residential properties to the north and north east. Residential development is therefore considered acceptable in principle.***

- (ii) transportation and infrastructure implications;

***The East Ayrshire Council Roads and Transportation Division have no adverse comments to make on this application, as detailed in Section 3.5 of this report.***

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

***There are traditional two storey tenement flats and modern two storey dwelling houses situated to the north and north-east of the application site. Flatted dwellings are considered acceptable at this location.***

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

***The proposed development has been assessed against the Council's Design Guidance in Section 5.6 of the report.***

5.5 Policy RES 22 requires all developers to observe the minimum standards for the provision of private open space of 25 square metres per bedroom.

***The proposed development meets the above requirements.***

5.6 Policy ENV 7 of the East Ayrshire Local Plan is relevant and advises that all developers will be expected to fully comply with the Council's Design Guidance for new residential development for infill or gap sites. Development must recognise and reflect the scale, design features, rhythm of doors and windows, storey height, density and materials of surrounding buildings. Furthermore the Design Guidance also states that any new housing development should not result in an acceptable invasion of privacy or overlooking of properties adjoining the site. The development must not have an oppressive, overshadowing or visually intrusive impact on neighbouring properties.

***It is considered that the proposed development relates to the surrounding area with the design, height and materials of the development being compatible with the surrounding area. The design of the development also takes advantage of its river location. The proposed development will not be visually intrusive nor will it have an overbearing or oppressive impact on adjoining dwellings.***

5.7 The applicant has agreed to an contribution of 1% of construction costs to the TLR5 Sports, leisure and recreation fund.

## **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 and the letters of objection addressed in Section 4 of this report and the planning history of the site.

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

### Representations Received

6.3 The concerns of the objectors have been assessed in Section 4 of the report and are not material to this application. Their concerns of car parking and traffic congestion have not been supported by the Roads Division.

With regard to the design of the development it is considered to be compatible with the immediate area and the blocks have been sited to minimise their impact on existing dwellings.

### Planning History

6.4 05/0436/FL: Development – 64 No. flats New Mill Road. This application was withdrawn by the applicant on 06 October 2005 following discussions with this Division.

## **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 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 is indicated in Section 5 of the report the application is considered to accord with the policies of 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 at Section 6 of the report there are material considerations relevant to this application. The concerns of objectors are noted, however, they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns have not been supported by the Roads Division. 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. The proposed development will remove a vacant derelict site and replace it with a modern residential development which has taken advantage of its riverside location.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application should be approved subject to conditions indicated on the enclosed sheets and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily conducted a Legal Agreement with the applicant's 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.

**Alan Neish  
Head of Planning Development and Building Standards**

26 April 2006  
FC/RH  
FV/DVM

051273FLNewMillRoadKilmarnockRH

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representations.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Application No: 05/0436/FL

**EAST AYRSHIRE COUNCIL**  
**TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997**

Application No: 05/1273/FL

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Site of Proposal:	Former Cash and Carry Site New Mill Road KILMARNOCK
Nature of Proposal:	Proposed Erection Of 44 Flatted Dwellings
Name & Address of Applicant:	Booker Cash and Carry Ltd Per Dawn Homes Ltd 220 West George Street GLASGOW G2 2PB
Name & Address of Agent:	Jewitt Arschavir and Wilkie 32 New City Road GLASGOW G4 9JT

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DPOs Reference: <<FC/RH>>>

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 30 November 2005 and amended plans received 18 April 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 finishes and colours to be used as external materials on the proposed development shall be submitted to and approved in writing by the Planning Authority and thereafter 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 commencement of any works on site, details and samples of all external ground treatments shall be submitted to and approved in writing by the Planning Authority and thereafter implemented on site as approved.

REASON In the interests of amenity of the development.

4. No external construction work, site clearance or preparation works shall take place before 08:00 hours and after 18:00 hours Monday to Saturdays and at any time on Sundays.

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

5. Notwithstanding the plans hereby approved, details of the landscaping of the open space areas and their maintenance arrangements shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented within the next planting season following the occupation of the first flat.

REASON In the interests of visual and residential amenity of the area.

6. Notwithstanding the plans hereby approved, details and samples of the treatment of the boundary along New Mill Road shall be submitted to and approved in writing by the Planning Authority prior to commencement of any development on site. These details shall include the erection of a boundary wall and railings and shall be implemented prior to the occupation of the first flat.

REASON In the interest of the amenity of the area.

7. Notwithstanding the plans hereby approved details and samples of the boundary treatments for the west, south and east elevations of the site shall be submitted to and approved in writing by the Planning Authority prior to commencement of any development on site and implemented prior to the occupation of the first flat within the block to which the boundary relates.

REASON In the interest of the amenity of the area.

8. During the construction works, 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 other vehicles.

REASON In the interests of public and road safety and residential amenity.

9. 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 unreasonably affected.

10. 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.

11. The proposed car parking spaces shall be formed prior to the occupation of the first flat.

REASON In the interests of road safety and residential amenity.

12. Prior to the commencement of development on site, details of the 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 the first flat.

REASON To ensure adequate drainage is provided.

13. Notwithstanding the approved plans, details of the provision for the storage of refuse bins and the treatment of those areas shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site and implemented on site as approved prior to the occupation of any of the 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 accommodation provision in the interests of the amenity of the area.

14. 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.

15. No development shall commence on site with the exception of site investigative works until a remediation scheme to deal with the contamination arising from the industrial 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 de-contamination measures.
6. Details of measures to remove all pipes underground services on site and disused underground petrol tanks as a result of the previous use and remedial measures to fill the ground levels following 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 public safety and residential amenity.

16. On completion of the remedial works approved under the terms of Condition 15 above and prior to any 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.

17. Notwithstanding the approved plans, details of the treatment of the boundaries associated with the sub-station shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall be implemented prior to the occupation of the first flat.

REASON In the interests of visual and residential amenity.

18. Notwithstanding the approved plans, details of the gradient and treatment of the riverside path shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall thereafter be implemented prior to the occupation of the first flat on site.

REASON To allow access to the riverbank, in the interests of 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 applicant should ensure that prior to development commencing on site, they have secured an agreement with Scottish Water regarding the suitability of all proposed drainage connections and the suitability of the existing infrastructure to accommodate such connection.
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 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.
4. SUDS shall be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

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