

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 12 NOVEMBER 2004**

**04/0653/RM: PROPOSED RESIDENTIAL DEVELOPMENT FOR NINETY ONE  
DWELLINGS  
AT THE FORMER SITE OF KILMARNOCK INFIRMARY/  
HILL STREET/GARDEN STREET/PORTLAND STREET, KILMARNOCK  
BY THE KLIN GROUP**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 This is a reserved matters application for the erection of 91 flatted dwellinghouses. The flatted development comprises the following details:-

- 12 one-bedroom apartments;
- 75 two-bedroom apartments;
- 4 three bedroom apartments;

1.2 The various elements of the development are listed in detail within the main body of the report.

**2. RECOMMENDATION**

**2.1 It is recommended that the application should be approved subject the conditions indicated on the enclosed sheets attached to this report.**

**3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, the application is 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 5 of this report the EALP is supportive of the proposal and it is in accordance with advice detailed in the East Ayrshire Council Design Guidance. The development fails to meet the public and private open

space standards detailed in the above plan, however it is considered that a relaxation can be justified in this instance due to the location of the development site, its relationship with surrounding properties and the nature of the development which would secure the removal of a derelict vacant site. Useable public open space has been provided and it contributes to upgrading the general amenity of the area with private open space provided where possible in the form of roof terraces that are a modern form of private space adding vibrancy to the scheme and interest to the surrounding area.

3.3 The application site occupies an elevated position to the north end of the town centre immediately adjacent to the railway station/viaduct and a number of ecclesiastical listed buildings. It is a very prominent site in the townscape and the development provides a bold, positive modern contemporary solution taking full advantage of the landscape characteristics and topography of the site. It is considered that the development adds contrast and character and will integrate within the townscape and skyline. The development embodies advice from recent publications from the Scottish Executive on Architecture which encourages innovatively designed development to make the most of its setting in the landscape to result in it being unique and distinctive to its location rather than duplicating design from a past era. On a development of this scale, it is the attention to detail and the quality of external materials that will elevate the quality of the end result. The external materials include traditional elements of slate and stone which will be enhanced with more modern materials providing a contrast that will result in a superior quality of development for the 21<sup>st</sup> Century.

3.4 The concerns of the objectors are noted however they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns regarding road safety have not been supported by the Roads Division. The site's proximity to the town centre and the railway station are opportunities for a successful residential development of an appropriate urban scale. It is considered that not only is the setting of St Joseph's much better served by the present proposals than it was by the previous development proposal, but the current proposal fully reflects its surrounding built environment. There was significant encroachment previously by Kilmarnock Infirmary around St Joseph's. This has now been avoided by the use of well spaced pavilions set at a lower height than previously proposed with tree lined pedestrian walkways, areas of amenity grass with the use of quality materials and varying roof and stepped elevations styles to create interest and maintain and enhance heights to important buildings and structures in the surrounding area. Being within the centre of Kilmarnock the development form in this area is one of dense and higher buildings. The proposal will provide a development frame for St Joseph's that will have a lesser detrimental impact on St Joseph's than did the previous infirmary and by virtue of the revised proposals will maximise the church's position presiding over the town centre. It is considered that the revised proposal meets the findings of the Reporter to the Scottish Ministers on appeal.

3.5 The development will add considerably to the amenity of the area by developing a derelict vacant site and replacing it with well designed modern housing development. The development will provide an important and enduring addition to Kilmarnock's built environment.

### **CONTRARY DECISION NOTE**

Should Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because 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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**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 reserved matters application which is to be considered by the Central Local Planning Committee as it is an application of area significance which is subject to objections.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site extends to some 1.15 hectares in area and is the site of the former Kilmarnock Infirmary. The site occupies an elevated position to the north end of the town centre which is presently derelict and overgrown with the last infirmary building, which was listed, being demolished in the late 1990s. The site is surrounded to the north by St Joseph's Church, a Chinese restaurant, public house and residential flats, to the south by Hill Street and beyond that the railway viaduct. To the west the site is bound by Hill Street, Kilmarnock Railway Station and the buildings of United Distillers and to the east by Garden Street beyond which is the B listed former West High Kirk and commercial buildings one of which was formerly Weirs of Portland Street. The site slopes down north west to south east towards Portland Street and is currently bound by various boundary treatments comprising natural stone and brick.

2.2 Outline planning permission was granted on 02 August 2002 for "Proposed Class 4 Offices and Flatted Residential Development" on this site by the Central Local Planning Committee ref. No. 01/0559/OL.

**2.3 Proposed Development:** This is a reserved matters application for the erection of 91 flatted dwellinghouses. The flatted development comprises the following details:-

- 12 one-bedroom apartments;
- 75 two-bedroom apartments;
- 4 three bedroom apartments;

2.4 Vehicular access to the development will be from Hill Street utilising the existing upgraded access point which is adjacent to the existing access for St Joseph's Church and the developer has advised that there will be no work to the Church's access and 93 car parking spaces (of which 5 will be disabled spaces and 1 medical/ambulance space) will be provided within the site. The access road within the site comprises a central avenue that curves round following the line of Garden Street to its junction with Portland Street. A single road will be accessed from this avenue and car parking will be provided at the roadside. Both access roads will have turning heads formed with bollards located at strategic points to prevent indiscriminate car parking. Communal bin stores will be located throughout the site and landscaping will also be formed with extensive areas of communal grass land with shrubbery and trees located between the pavilions and along the internal access roads and paths. A pedestrian access is proposed on Garden Street to a central rounded paved area forming a vista to St Joseph's Church. Pedestrian access is also provided to the north east of the site at Portland Street.

2.5 The flats are provided in 4 free standing pavilions located along the central access avenue surrounded by open landscaped ground with avenues of trees within. The pavilions are square in shape and depending on ground levels are 3 or 4 storeys in height with a penthouse flat above which has a terrace that wraps around the penthouse. The roof arrangement is hipped with windows punctuating the blocks either of long and linear windows or square windows.

2.6 The building at the west of the site comprises a further pavilion building that forms part of a larger 'L' shape building that follows the line of Hill Street. The building along this boundary varies from 5 storeys in height ,at the highest point on the site at the vehicle access, to single storey with roof terraces at the bend in Hill Street closest to the viaduct before then rising in height again to 4 storeys with dormer windows and 3 storeys with roof terraces at the south eastern boundary.

2.7 Design of the apartment blocks is modern with various roof styles such as duo and mono pitched, hipped and flat roofs utilising roof terraces. The blocks are punctuated with a varying fenestration arrangement comprising long, linear windows and square windows. Proposed external materials vary from traditional

materials such as natural slate, and stone, to facing brick, lead and zinc, render and cladding. Window frames will comprise dark grey powder coated aluminium. The proposed penthouses take advantage of their elevated location and the views over the town and surrounding countryside by the use of glazed panels, long linear windows and extensive roof terraces.

2.8 Proposed boundary treatment both within and around the site comprises as follows:-

- Hill Street - at the site entrance a low level entrance wall of natural stone and facing brick with a stone cope to match the buildings with a salvaged pier from Portland Street. The boundary treatment for the length of Hill Street will comprise a stone wall with part of the existing wall kept and a stone cope added.
- Garden Street - a random rubble stone wall to the front face with a concrete retaining wall behind and re-used stone copes.
- Portland Street - a random rubble stone retaining wall to the front face with a concrete retaining wall behind and metal balustrade above.
- Adjacent to St Joseph's Church - a rendered retaining wall with natural stone and brick piers and stone cope to match the materials of the proposed buildings. Above the rendered wall will be a metal balustrade.
- North of the site - a rendered wall with concrete cope along the northern site boundary with the properties at 2-6 Wellington Street.

2.9 Within the site owing to differing levels, there will be retaining walls as detailed in paragraph 2.8 above using materials to match the buildings on site. Surface treatment within the site will comprise as follows:-

- Internal access road - black tarmacadam.
- Parking bays and footpaths - bound gravel chips.
- Footpaths leading to entrance foyers, on footpaths leading to Garden Street and Portland Street and at the circular space which offers a view to St Joseph's Church as a vista within the site - Caithness or York stone setts.

2.10 The applicants have submitted supporting information relative to the proposals. Plans have been lodged which detail the proposed colours and types of external materials and views of the development in relation to adjoining listed buildings comprising St Joseph's Church and the West High Kirk. Cross section drawings through the site have been provided which illustrate how the development will be set at a lower level to St Joseph's Church and the railway

with a stepped building arrangement to Hill Street to afford views of the church from the platform and viaduct at the railway station. The use of single and two storey apartments at Hill Street with roof terraces seeks to ensure an open aspect to the church.

2.11 The applicants advised that since the previous application (as detailed in paragraph 6.3 of this report) the scheme has been wholly re-assessed in an attempt to meet the Reporter's concerns. The number of dwellings has been reduced and the town houses deleted in addition to the health club. The views of St Joseph's Church will be framed from Portland Street, Boyd Street and Garden Street and the Station Entrance with a variety in building scale, heights massing and materials on Hill Street and an open landscape feature and walkway via a circular space from the Hill Street boundary. The hard and soft landscaping will be formed using quality treatment and planting specification.

2.12 A petition of support has been submitted totalling 927 signatories with 26 letters of support from local businesses, adjacent neighbours and the local community also lodged. The support is based on the improvements that the proposed development will make to the area by bringing quality accommodation and life back into the community. It is considered that the design is complementary to the surrounding area and will remove a derelict site that has been an eyesore for over 15 years. It is submitted that the applicant wishes to undertake a development that will be of economic benefit to the town (bringing with it people, business and jobs) and that is also in accordance with current Government policy with regard to brownfield regeneration.

2.13 The applicants have further lodged details of their design concept relative to the proposed development. They advise that they have sought to deliver a quality scheme which provides a vision for the 21<sup>st</sup> Century that complements the surrounding area whilst producing an interesting, distinctive and memorial scheme that is contemporary taking into account the listed viaduct and adjacent listed churches. The work of a Slovenian Architect from the 20<sup>th</sup> Century has been identified who assisted with urban regeneration, held a religious flair for interpreting buildings and has been referred to as a pioneer of urban planning, one Jose Plecnik.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 Scottish Water objects due to the cost of providing infrastructure to serve the development being outwith their "reasonable cost" obligations. They would remove their objection if the applicant bears the cost of the increase in capacity of Scottish Water's existing infrastructure to accommodate this development and/or promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system.

***A note can be attached to any grant of planning consent advising the applicant of the requirements of Scottish Water.***

3.2 West of Scotland Archaeology Service and Transco have no adverse comments regarding the proposed development.

***Noted.***

3.3 The Scottish Environment Protection Agency (SEPA) require that all foul drainage from the site should be connected to the public sewer and seek written assurance from Scottish Water that the additional flow arising from this development will not cause or contribute to the premature operation of consented storm overflows and that sufficient capacity exists within the network to adequately treat any increased load. If planning permission is granted it is requested that a condition requiring the treatment of surface water in accordance with SUDS principles be imposed although the design of the drainage system will be site specific and dependent upon contamination at the site, the remediation strategy and the risks posed by any residual contamination in addition to the normal design considerations. It is possible that previous uses at the site as a hospital may have resulted in land contamination although no details have been received relating to the site history with conditions and this matter should be explored further. If planning permission is granted advice contained within SEPA's Pollution Prevention Guidance Note 6 "Working at Construction and Demolition Sites" should be followed. Suitable provision with regard to the National Waste Strategy Local Area Waste Plan should be made for waste storage at individual properties and for the development as a whole in line with the Council's collection plans to address its re-cycling, composing, recovery and disposal targets.

***The above requirements of SUDS has been addressed by conditions attached to the outline planning consent which require to be purified before development commences on site. If Members choose to grant consent appropriate conditions can be attached to investigate and address any contamination and to ensure appropriate refuse storage. An advisory note can be attached relative to SEPA's Pollution Prevention Guidance Notes.***

3.4 East Ayrshire Council's Environmental Health and Waste Management Service have no objections to make although advise that the historical maps of the site show a boiler house and laundry within the previous hospital grounds and are aware that asbestos lagging was used extensively for insulating steam pipework in boiler houses and there is therefore the potential for asbestos lagging to be present in underground services. If found, asbestos will need to be removed and safely disposed of with regard to current Health and Safety and asbestos legislation. Any approval granted should also contain a condition to

ensure that refuse storage facilities/arrangements are agreed and installed to the satisfaction of East Ayrshire Council's Cleansing Service and although there is very little housing nearby, St Joseph's Church is directly adjacent and construction work therefore should be undertaken to cause minimum nuisance. It is further noted that in some of the flats fronting Hill Street, the bathrooms are accessed directly off the open plan living/kitchen/dining areas although if the internal space was re-arranged, it seems feasible to access bathrooms from the vestibule and it is queried whether Building Standards have raised concerns in this regard.

***The points raised relative to contamination, refuse storage and works being carried out on site can be addressed by attaching conditions to any planning permission. With regard to the accessing of the proposed bathrooms, this is not a material planning consideration and will be addressed by Building Standards in their consideration of a Building Warrant.***

3.5 Bonnyton Community Council object due to the loss of visual amenity to listed buildings and neighbouring property, the lack of parking spaces and insufficient waste disposal facilities.

***This is addressed in Section 4 of the report.***

3.6 North West Kilmarnock Community Council consider that great consideration must be given to sightlines for access/egress traffic and to traffic levels from other sites such as Diageo, Scottish Enterprise, the veterinary surgery, future residents of Nazareth House and taking account of St Joseph's Church and the use of St Joseph's by Diageo employees. Other traffic considerations such as the parking habits of motorists in Hill Street some all day and others circa 4.30 pm for a short period when parking is on both sides of the street and on the pavement. The pair of pavilions facing Portland Street should have the same treatment as these buildings in Hill Street facing the viaduct to support the architectural distinction created by the viaduct, St Joseph's Church, West High Kirk and Old Kirk thereby pressuring any future development of Garden Street and Portland Street to maintain the quality response of this development. The level of car parking provision within the site in terms of sufficient provision for two car families and the link to Slovenia is also questioned.

***The Roads Division consider that the development is acceptable in terms of the access and car parking. It is considered that the proposed pavilions facing Portland Street complement the design of the proposed buildings onto Hill Street. If all elevations of each building within the site were finished in an identical distribution of materials, this could result in a bland appearance. The use of varying materials will add interest into the street scene.***

3.7 Railtrack, Piersland Bentinck Community Council and East Ayrshire Council's Access Officer have not replied to their consultation letter at the time of writing this report.

***Noted.***

3.8 East Ayrshire Council's Roads and Transportation Division advise that the previous Transport Assessment submitted for the outline planning permission demonstrated that the additional development traffic will not have a significant impact on the existing junctions on the approaches to the site. The latest updated submission now demonstrates that the additional development traffic will not have a significant impact on Hill Street in the vicinity of the proposed access point. The Roads and Transportation Division also advise that the proposed access, turning head, and parking provision within the site is acceptable.

***Noted.***

3.9 The Scottish Civic Trust in principle welcome the redevelopment of this site and support residential accommodation on it and consider that the site because of its inherent slope and important adjacent buildings, represents a particular design challenge. They note the effort spent by the consultants in taking this on board, however are not convinced that their strategy for the site is entirely suitable.

In respect of the Hill Street end of the site, the proposed L-plan terrace is interesting in terms of both its modelling and its architecture. The attempt to ensure long distance views to St Joseph's Church from the railway station is to be particularly commended. The proposed structuring of the facades is very interesting and they note the references to a building in Slovenia as the model for the masonry work to the elevations. One weakness in this part of the development is the proposed roof structure on the northern 5-storey unit which is likened to the image of a Chinese Pagoda. This roof structure sits awkwardly on what is otherwise a simple and interesting design, and should be re-considered. Indeed, they consider that the whole notion of a Chinese Pagoda on top of a Slovenian wall in Kilmarnock is amusing.

With regard to the rest of the site, there are concerns with the essential form of four separate square buildings located intermittently between Hill Street and Portland Street. Firstly, there are concerns regarding the roof structures on these four blocks which are even more awkward on these individual buildings. Secondly, and more importantly, this form of development has created a scenario where there is no clarity with regard to what is public and what is private space. On a more isolated landscaped site this would cause less concern but in such a

dense urban environment such as this, the lack of clarity with regard to the urban realm is crucial. For example, the ground floor properties of each of these blocks has no defensible space to signal that these are dwellings. Similarly, structured pedestrian routes in between the blocks will add to this confusion of public versus private. This element of the scheme should be re-considered with perhaps a more formal terrace at the Portland Street end of the site (similar to that at Hill Street) and a reduced number of stand-alone pavilions in the centre of the site.

***It is noted that the Civic Trust consider the scheme to be an improvement from before and whilst their concerns are noted, it is considered that the design of the proposed roof on the pavilions is both interesting and in keeping with the design of the pavilion buildings and the site's urban setting. The erection of the four pavilions allows significant views of St Joseph's Church from Portland Street, Hill Street and Garden Street. The landscaping and open space areas surrounding the buildings are communal which allows access for all residents in the development.***

3.10 The Architectural Heritage Society of Scotland (AHSS) note that the proposals have been modified in line with the comments of the Reporter and the tenor of the AHSS, and other, objections, they believe that they still do not do justice to this important, sensitive and prominent site in the centre of Kilmarnock, and therefore they are objecting to the development. It is recognised that the site must be developed in some form but would also argue that it has been vacant for some years, and that a few more months spent ensuring that the right solution is found will be of more long-term benefit to Kilmarnock than a cost-driven rush to a speedy conclusion.

They are concerned that the development takes little cognisance of its relationship to surrounding listed buildings, in particular, St Joseph's Church, the former West High Kirk and the Kilmarnock Viaduct. The height of the proposed new blocks particularly is detrimental to the setting of these buildings, while the proximity of the six-storey blocks to the south of St Joseph's Church will ensure that its main, and most architecturally important elevation remains in shadow during the day. If seen from a distance they will intrude badly upon the remarkably distinctive Kilmarnock skyline, a skyline which has survived much of the damage visited upon the town.

The physical geography of this site also means that the new blocks will sit above the former West High Kirk, and will ensure a subservient visual role for it, and its tower. This was designed as an architectural finale in its own right, and not to act as a foil to structures behind.

With regard to the new structures, the over-development of the site is leading to shortcomings in design. If there were fewer blocks and if they were lower in

height, there would be more opportunity to develop an appropriate visual relationship with the existing listed and historic buildings. The high number of proposed flats has led to insufficient provision of open space, while the number of parking spaces provided seems likely to lead to parking on adjacent public roads.

***It is considered that to undertake a development of the same design as the neighbouring listed buildings/structures would be to detract from the architectural integrity of these buildings/structures as it is difficult to replicate this standard of architectural quality without introducing pastiche. This proposal seeks to take cognisance of the surrounding buildings/structures and to erect a complementary scheme in a 21st Century style. It is considered that the design of the new development will allow for continued significant views of St Joseph's Church. The development will not dominate the viaduct and the West High Church will still prevail in the skyline in Portland Street .***

The external finishes, with their quasi-random mixture of materials, appear to have no parallels in Ayrshire or, indeed, Scotland. Calling in, in defence of these finishes, the 100 year old work of a maverick (if brilliant) architect working in Ljubljana - a town, and in this instance a site, whose similarities and relevance to Kilmarnock are (at most) slender - is no defence. Clearly a number of external finishes are used in the surrounding buildings and in Kilmarnock generally, such as various colours of sandstone, brick, harl and plaster render and the contrasts of colour and texture do add to the quality of the architecture. The problem with the scheme is one of scale: a large area is being developed, by one developer, using one architect, and this can never give the same feel of almost organic growth. Modern architecture is not opposed but all developments must take cognisance of their neighbours .

***It is frequently found that modern materials are used alongside more traditional materials. It is considered that the use of a bold design statement, a range of materials and design features will all add to the final design statement and the quality of the development. The use of modern materials will not have an adverse impact on the viaduct or adjacent listed buildings. The criticism of redevelopment undertaken by one developer and architect is not accepted in that the proposals pursue variety with great determination.***

The access from the site on to Hill Street remains very close to that of St Joseph's Church. It is difficult to see that this, especially with regard to the importance of Hill Street to traffic movement north of Kilmarnock, can be made to work, either in short or long term.

***The Roads Division have no objections to the proposed development. Members are referred to Section 3.8 of the report.***

It is considered that the wrong solution is being proposed. Flatted blocks such as these, are currently enjoying a vogue and there are areas in many towns, perhaps including Kilmarnock, where they are appropriate. They may not be the right answer on this tight, sloping site close to the historic core of Kilmarnock, and time should be found to explore alternative approaches. Dense terraced housing, for instance, is often found in central urban locations such as this, and could make effective use of the contours, without compromising the setting for the existing listed buildings or the skyline of Kilmarnock.

***It is considered that the proposed development is appropriate for the site as it takes advantage of the landscape characteristics and topography of the site. The previous scheme proposed terraced houses which was found to be unacceptable and the applicant has therefore proposed this alternative development which is laid out in a more spacious manner. A clear attempt has been made to introduce distinction and variety in detailing and scale and the scheme now is much changed from the earlier proposal, and is quite distinct from the monolithic development form that previously graced the site; i.e. the Infirmary.***

3.11 Historic Scotland notes that this revised scheme attempts to address all of the points set out in the previous applications where concern was expressed about the impact of the development on significant views to and from the Station, St Joseph's Church, and to the viaduct, all of which are listed buildings. Although the choice and specification of materials is a positive move in making the buildings more recessive, there is concern about the visual impact of the pagoda-type roofs on the townscape and views to listed buildings in the immediate area. The Memorandum of Guidance on Listed Buildings and Conservation Areas (1998) sets out guidelines for development affecting the setting of listed buildings which should assist the Council in making its appraisal of this application. The Council should ensure that the following key points are considered to ensure that the development will not:-

- (a) restrict views of or from the listed building, or rise above and behind the listed building so that its silhouette can no longer be seen against the sky from the more familiar viewpoints;
- (b) block distant views of important landmarks;
- (c) involve the construction of projecting features which will be seen in oblique views of the listed building.

The developer has made efforts to address concerns on point (b) which mainly related to St Joseph's Church and retaining the prominence of its south gable in the historic streetscape. They would recommend that the likely impact of the revised development be re-considered on views to St Joseph's from the Railway Station and the town centre. They would also recommend consideration is given to views to the Burns Monument from the Railway Station and from the Monument to the Station.

In light of the revisions to the scheme, they would emphasise the critical importance of assessing the visual impact of the development on views northwards in John Finnie Street, as the listed buildings here form an "A"-grouping and are all within the boundaries of a Conservation Area. If there is any likelihood that the pagoda roof will interrupt the profile of the Station and its tower, then drawings or photomontages should be provided to demonstrate the actual impact or lack of it from the viewpoint where the impact is greatest. They would suggest it is important that this point is considered from the southern half of John Finnie Street and the northern end of Dundonald Road.

They understand that it is proposed to keep the historic wall and railings of the former Infirmary which defines the eastern edge of the site where it bounds onto Portland Street. These railings have a high-quality neo-Greek design and these should have been resolved.

***The revised scheme has taken into account views from the railway station and the building drops to single storey at the critical point at Hill Street to afford views of St Joseph's Church. The views of the site from John Finnie Street will be linked and will not be adverse to the Listed Buildings. The historic railings and wall along Portland Street are confirmed as being retained as far as possible and conditions can be incorporated to ensure their retention. The scheme now proposed is lower in height than the previous development and the effect on the skyline, which at that time was not significant and actually integrated as part of the skyline, will not be significant.***

#### **4. REPRESENTATIONS**

There are 31 objectors to the proposed development (including Scottish Water , Architectural Heritage Society of Scotland and Bonnyton Community Council as detailed in Section 3 of this report). There is also one petition of 5 signatories submitted. The objections raised are as follows:-

4.1 The proposed development fails to meet the policies of the East Ayrshire Local Plan RES 4, 19 and 22 and Policy T3.

**Members are referred to Section 5 of this report.**

4.2 The application fails to meet Section 59(1) of the Listed Building and Conservation Areas (Scotland) Act 1997 and Section 10.1.0 of Historic Scotland's Memorandum of Guidance on listed buildings which imposes a general duty on the Council when it considers planning applications to have special regard to the desirability of preserving the setting of listed buildings affected by the proposal.

**This is addressed in Section 5 of this report.**

4.3 Access to the site is dangerous and will be a potential hazard when observing traffic flow in Hill Street to traffic and pedestrians. The access to the site some 20 metres south of that of St Joseph's Church is illegal according to Roads' Guidelines and this concern of a hazard was supported by the Reporter in the previous appeal who stated that the volume of traffic could result in a serious accident. The access point to the north west corner of the site was agreed at the outline stage. Consideration should be given to whether the build out has any benefit or dis-benefit to other traffic on this busy through-route

**The position of the access point was agreed at the outline stage. Members are also referred to the comments of the Council's Roads and Transportation Division in Section 3.8 of this report and are advised that the access to the site has been the subject of extensive consideration and has been evaluated by a Transport Assessment, which has also considered traffic volumes in the surrounding area. A summary of the Reporters findings regarding the previous application is addressed in section 6.4 of the report. The Reporter considered that access alone could not be a reason for refusal of the previous application.**

4.4 Parking provision is totally inadequate and it is naive and optimistic to suggest that residents will pay to park elsewhere. They will do so in St Joseph's Church.

**The Roads and Transportation Division have accepted the level of parking provision for the proposed development. Unauthorised parking at St Joseph's Church is an enforcement matter for the Church.**

4.5 There is no disabled parking provision.

**The amended plans detail the provision of 5 disabled parking spaces within the site.**

4.6 There could be potential nuisance in noise and vibration from rail traffic (including freight) being in close proximity to the railway and this issue should be considered by Environmental Health.

***Both the Council's Environmental Health Division and Railtrack have been consulted on this application. Whilst Railtrack have not responded, Environmental Health have not raised any concerns relative to any possible noise nuisance. The proposed development is to be located in an urban area where there are already significant levels of noise and disturbance and when purchasing the flats, residents will be aware of existing neighbours.***

4.7 Thorough ground investigation into contamination is required.

***As detailed in Section 3.4 of this report, the Council's Environmental Health Division have recommended measures to deal with possible ground contamination should planning consent be granted.***

4.8 Existing and proposed ground levels are critical and existing levels should be re-visited due to the unauthorised dumping of soil on site which has since been spread.

***The existing and proposed ground levels have been the subject of detailed consideration and are considered to be acceptable.***

4.9 Siting bin stores immediately below a viewing platform directly below and in front of St Joseph's Church is disgusting and offensive.

***It is intended to site bin stores at unobtrusive locations throughout the site to be enclosed by structures in keeping with the design of the overall development. There is to be a viewing platform at St Joseph's which owing to the site levels, creates space below that will be utilised by a bin store that will be fully enclosed and it is not therefore considered to adversely affect the character of the Church.***

***The applicant has further advised that no open refuse will be stored at this location as all bulk containers within the store will have lids that act as a seal. The building will be enclosed on all elevations and the entrance doors would be louvred to avoid odour build-up.***

4.10 The application should not be for 'reserved matters' approval since the original outline was for residential and office use. It was very different from this proposal and the Council is usually very keen to ensure new applications which differ materially from a previous submission. Without clarification on this point there could be a legal challenge.

***The application as submitted is for reserved matters approval relative to a previous outline consent and it is not considered that this is technically incorrect. This Division seeks new applications where amended plans have been required which introduce significant changes thereby requiring new neighbour notification. The original outline consent included residential use and it is not considered that this application seeking reserved matters approval in that regard is incorrect.***

4.11 The building form, height, finishes and scant regard to space between buildings will result in problems of overshadowing, uneven weathering and no sense of place for residents.

***It is not considered that there will be problems of overshadowing or uneven weathering. The communal landscaping layout will provide a good ambience and better continuity to the development. If individual plots were designated, the result could be one of confusion and piecemeal development with an assortment of boundary treatment, outbuildings etc that would significantly compromise the overall character and amenity of the scheme. Open structured landscaping will provide for a more visually acceptable scheme achieving a higher quality development once completed. In a scheme of the format of a flatted development, it is not unusual that open space is of a communal nature.***

4.12 There is a general wish to see the site developed, but not at any cost and it should be undertaken in a manner that preserves the town's heritage, not creating an unsightly monster replacing what was formerly part of a picturesque town centre. It is hoped that following the recent appeal decision, a more sympathetic proposal that embraces and enhances the setting of the listed buildings/structures would have been forthcoming. It is considered that the scheme will obscure familiar view points such as St Joseph's Church, the spire of the West High Kirk, the view towards the Auld High Kirk and Kay Park (Burns Monument and Reformers Monument) whilst also overshadowing St Joseph's Church by introducing the 6 storey blocks. Whilst the development goes some way to meet the requirements of the Church it falls short of a suitable solution in terms of environment and aesthetic appearance, and conformity with both Council and Historic Scotland Regulations.

***This is addressed in Sections 5.7 and 5.8 of this report.***

4.13 A model is needed to demonstrate the visual impact of the scheme as has been utilised for other proposals as this would allow a greater understanding of the scheme for the typical lay person.

***The applicant has submitted detailed plans that accurately detail the proposed development.***

4.14 The density of the development is too high with insufficient private and public open space and conflicts between residents and traffic. The site is difficult and sloping and unsuitable for the heights proposed as 5 and 6 storeys are rare in the town. In the recent Nazareth House report the Council justified non-compliance with design policies and parking standards as being lower for brownfield sites. With more development at Nazareth House and proposals to build on The Foregate possibly using a widened Garden Street as a main thoroughfare, access to car parks and public open space is more difficult.

***The Roads Division have offered no adverse comments regarding the proposed development and have accepted a lower level of car parking due to its central location within the town and proximity to the bus/railway stations. The proposed development has been assessed against Policy RES 22 of EALP in Section 5.4 of the report regarding open space provision***

4.15 The proposal is contrary to the Council's Design Guidance as it does not conform, compliment or harmonise with the landscape character of the area, the design of existing buildings and general appearance of the surrounding area particularly in terms of scale, form, material and finish.

***This is addressed in Section 5 of the report.***

4.16 No other housing in Kilmarnock extends to 6 storeys and the scheme is totally incompatible with the area especially at such an elevated site. The skyline will be adversely affected by these tower blocks and the site will be grossly overcrowded and although an improvement on the existing situation will be cheap and inconsequential. 4 storeys is high enough and the developer should retain the existing character of the neighbourhood by adopting a more sympathetic land density. The height of the structures will unacceptably damage the setting and integrity of many listed buildings/structures in the area. In trying to open up views to St Joseph's Church the Reporters opinion has been forgotten in respect of the impact of the setting and views towards and relationship with nearby listed buildings of vital importance to the character and townscape of central Kilmarnock.

***The Reporters findings on the previous application are discussed in Section 6.4 of the report. The proposed development has been addressed against the Council's Design Guidance in Section 5 of the report.***

4.17 Discussions with the applicant's architect relative to the boundary wall with St Joseph's Church agreed a civil engineering report would be produced to determine the best way forward. The structural integrity and proposed finish of

the existing wall was raised as a concern particularly during earth moving during the construction phase. The position of the main access road close to the existing boundary wall some 5-7 metres in distance leaves very little opportunity to buttress the wall if it is to be retained. Whilst the eventual wall will be determined by the civil engineer's report, initial proposals have been changed from a 2 metre brick wall to a 1 metre high wall, topped by a railing on a brick base with periodic brick piers. This raises annual maintenance issues on metal railings. The proposed stone with brick finish along the length is aesthetically unacceptable with a traditional brick wall requiring less maintenance and is more visually attractive.

***The proposed boundary treatment is detailed in Section 2.8 and is considered acceptable. The structural stability of the wall will be a matter addressed through the building warrant.***

4.18 More than 90% of the existing house types in the area are 2/3 storey flats with only isolated examples at 4 storey (Witch Road and Wellington Street). Initial plans of 2 blocks at 6-storey and 4 more at 5-storey, with the slope and elevated height add further to the problems of visual impact as the development will dominate existing surrounding buildings. If all new blocks were lowered to 4-storeys the problems of density, height, parking and amenity open space (public and private) would be saved. The amended plans do not change the height of the overall development being 20% higher than other flats in the area and 40% higher than the norm. In reality only one flat has been deleted and this has been effected by removing a garden flat that was built into the slope. The height as seen from St Joseph's or relative to the spire of the West High Church does not alter.

***At the highest point the buildings are a total of 5 storeys in height, however, due to the design of the buildings they appear more equivalent to 4 storeys with the roof accommodation. Owing to the stepped levels, many of the pavilions are at lower height throughout the site and this is dependant on what perspective the site is being viewed from.***

4.19 The restricted palette of quality materials is generally acceptable with the exception of some of the York stone. The borrowed 1930's Slovenian treatment leaves buildings looking pock-marked and unfinished which detracts from the setting of adjacent listed buildings and is neither appropriate nor sympathetic.

***This matter is addressed in Section 5 of this report.***

4.20 The two dormer style windows on Hill Street west and south-west elevations could be dispensed with as they are at the top of stairwells and open in the event of fire to provide a chimney effect and suck out smoke to prevent build up in stairwells. The Velux Company provides a 'conservation' window that

is flush with slates and can be opened remotely by a switch at ground floor level if there was a fire which could reduce the height factor and improve the skyline.

***It is considered that the dormer windows make a positive contribution to the overall design of the proposed development. The dormer windows add interest within the roof space and will break up an expanse of roof. It is not considered that their removal would be beneficial to the overall design and character of the scheme.***

4.21 The net effect of reducing Pavilion D to five storeys is offset numerically by reinstating garden flats elsewhere which had previously been removed following earlier discussions in May.

***These discussions were pre-application discussions between the Church and the applicant. The applicant has chosen to include these flats which are acceptable as they are formed using the levels of the site and do not have an unacceptable effect on the amenity or general development of the site.***

4.22 The following concerns are offered in respect of the applicant's Transport Assessment:-

- Given the target client group, it is hard to accept that so few will travel by car despite the proximity of bus and rail station. This could seriously under-estimate the number of junction movements at weekday peak times.
- Using traffic movement figures along Hill Street, it is possible to arrive at a figure for vehicles whose journeys terminate in Hill Street at AM and PM peak times showing 59 vehicles stop in Hill Street in the morning and 102 start from there at PM peak time (reflecting overspill from the railway station car park and visitors to Diageo and Scottish Enterprise) with significant numbers using the Church car park (with or without permission) so there is already significant car parking on Hill Street itself.
- The survey makes no reference to the new development at Nazareth House from which traffic can only increase potential safety issues adding to the queues of traffic at Hill Street/Witch Road at pm weekday peak times.
- It is understood that a Safety Audit is now obligatory but there is no mention of this in the TA nor is there any attempt to evaluate the relative safety of different access points to a site which is bordered on 3 sides by roads.
- The TA concludes that the Hill Street/Garden Street junction strengthens the claim that the site entrance should be at that point. There would appear to be a much safer traditional access point further down the hill instead of introducing a problem of two juxtaposed access roads only 20 metres apart.

In response the Roads and Transportation Division have advised:-

- ***Traffic generation figures are derived from established techniques in line with current guidance.***
- ***Waiting restrictions are currently being marked on Hill Street which will prohibit parking on both sides of Hill Street from the St Joseph's access south to the junction with Garden Street, reducing the level of car parking on street.***
- ***The junction analysis within the TA demonstrates that the Hill Street/Witch Road junction can satisfactorily accommodate the additional generated traffic from the proposed site. Any additional flows from the smaller Nazareth House development will not therefore have a significant adverse impact according to the TA.***
- ***Minimal road works are required for the proposed development and a Safety Audit is not required.***
- ***In respect of the suggestion to position the site access at the junction of Garden Street /Hill Street this would require a more complex junction arrangement. The sightlines at such an access are likely to be poorer than at the proposed access point that will be a T-junction.***

## **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) (AJSP) and the Adopted East Ayrshire Local Plan (2003) (EALP).

### Approved Ayrshire Joint Structure Plan

5.2 The application site is located within the designated settlement boundary of Kilmarnock and there are no policies of the AJSP relevant in this instance.

### Adopted East Ayrshire Local Plan

5.3 The principle of residential development on this site has been established with the approval of the outline planning consent no. 01/0559/OL and therefore it

is not necessary to assess the principle of this residential development application against the policies of the EALP.

5.4 Policy RES 22 requires a minimum private open space criteria and standards to be met. It proposes flats should have a minimum of 25m<sup>2</sup> per bedroom. Policy RES 19 also requires housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals when they are seeking consent for in excess of 30 houses.

***The developer is proposing substantial areas of landscaping in between the buildings with avenues of heavy standard trees and extensive areas of shrub beds along Hill Street and around the base of the pavilions. The pavilions will also be set within wide areas of grass comprising useable open space. In addition the developer seeks to provide roof terraces for some of the flats which will contribute to levels of private open space within the site. Although the development fails to meet the criteria set by both Policy RES 22 and Policy RES 19, it is considered that a relaxation of the standards would be justified in this instance due to the location of the site, the nature of the development proposed and the condition of the application site. A relaxation where appropriate is consistent with the requirements of the policy. The site is located on the edge of the town centre and is surrounded by a mixture of commercial and residential properties. The built form in this area of Kilmarnock is dense and many residential properties are flats which have more limited garden ground. The proposed development will remove a derelict site that has been an eyesore for many years and at the same time improve the general amenity of the surrounding area by introducing a well designed housing layout with an excellent quality of external finish to provide good quality living accommodation in a modern format.***

5.5 Policy ENV 7 expects all developers to fully comply with the Council Design Guidance document. The Design Guidance requires that all development is based on good design practice and incorporates sensitive design features in keeping with good design principles. Housing styles and design over the ages act as historical markers identifying a particular locality and housing of all types provide secure and enjoyable places in which to live.

Good Design: All new housing schemes shall be proposed using best architectural practice in their detailing, scale and proportion and be interesting and distinct, exploiting and reflecting local features to advantage.

***The proposal provides a modern contemporary design solution for an elevated site to the north end of the town centre. This site is very prominent in terms of Kilmarnock townscape. The development***

***should and does take full advantage of the topography and landscape characteristics of the site. The development will provide an important and enduring addition to Kilmarnock's built environment. This type of modern, high quality contemporary design can be seen in urban areas whether it be Glasgow, Birmingham or London and it is not unusual to see well designed modern buildings adjacent to Listed Buildings. Those listed buildings were in their time modern additions to a contemporary built form. The critical issue is one of the quality of the design of the new development and the manner by which it complements and integrates with the surrounding built environment. The proposal provides an architectural solution that reflects the early 21<sup>st</sup> Century and provides a development which is very much in keeping with the objectives of recent publications by The Scottish Executive on Developing a Policy on Architecture for Scotland. It also refrains from providing a pastiche attempt at new development.***

5.6 Locality: Innovative design of a high quality will be encouraged. Designs will be required to conform, compliment and harmonise with the landscape character of the area, the design of surrounding buildings and the general appearance of the settlements in which the development site is located, particularly in terms of scale, form, materials and finish. Policy Env. 8 (v) also encourages architecturally innovative designs sensitive to the character of the area in which they are proposed.

***This modern development will add contrast and character to the streetscape. Appropriate, sensitive and innovative design is proposed for the apartment blocks, pavilions and Hill Street frontage. Due to the scale of the development, design features such as breaching the ridge level of the roof with the use of monopitch dormers, individual apartment pavilions and smaller improved roof features have been proposed. These design features will reduce the scale and bulk of the development and the attention to detail will elevate the quality of the completed development. Materials proposed vary from natural slate on the roofs, natural stone and render, to modern materials such as zinc/lead cladding charcoal wall cladding, and facing brick. It is the attention to this detail that elevates the quality of the end result.***

5.7 New development should ensure that any characteristic skylines or sympathetic building massing within existing settlements are not compromised or disturbed. Roofs should be double pitched with a slope of at least 30° on new housing with urban areas only. Roofing materials require to be in keeping with the character and appearance of the surrounding area. The use of local traditional materials is encouraged.

***The applicant previously submitted a number of perspectives illustrating the impact of the then development on the immediate and also the wider skyline. The wider skyline of Kilmarnock is characterised with some very high landmarks which are softened in the wider context by trees and landscaping. The previous development proposed a maximum of 7 storeys at its highest level with a greater percentage of the site covered in buildings. It is considered that the proposed development being lower in height (at the most 5 storeys); and having less concentrated units, individual pavilions laid out in site in a well spaced manner; will integrate within the wider skyline and not obscure or have a detrimental impact on the existing landmarks. In terms of the impact of the development on surrounding buildings and the John Finnie Street and Bank Street Outstanding Conservation Area only limited sections of the development will be readily visible. The impact of the bulk of the development has been reduced by the use of varying roof levels, stepping elevations and the use of design features. The viaduct will remain a dominant feature in the townscape. The development proposes a mixture of traditional materials such as natural slate and stone to modern materials such as cladding, facing brick and zinc. The final quality of the development will be based on the quality of materials and the attention to detail which will enhance and complement the surrounding buildings and the townscape.***

5.8 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the setting of a listed building is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. The Policy also states that development proposals should seek to preserve, enhance or incorporate features which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

***The applicant has proposed a high quality contemporary scheme that seeks to make the best possible use of the physical characteristics and topography of the site. The proposal has been re-visited since the previous submission and the applicant has sought to preserve and enhance the views of adjacent listed buildings and structures. The plans submitted illustrate how the massing of the proposal has been reduced from the previous submission of 2003 and how this will have a positive affect particularly on St Joseph's and will afford vastly improved views. St Joseph's Church will be framed by two pavilions separated by a tree lined pedestrian site to the St Joseph's axis.***

***The proposal also seeks to maintain views from Kilmarnock Station by stepping the elevations and reducing the height of the buildings to allow a fuller view of St Joseph's Church from the station platform. Views of the Church are also available at the bend of Hill Street by the construction of an open central paved area at Garden Street. A significant proportion of the boundary will be screened by the listed viaduct and boundary treatment which will lessen the perception of height of the development.***

5.9 Policy T3 states that the Council will require all developers to provide adequate car parking to the standards laid down by the Council as Roads Authority. The Policy contains the provision for brownfield redevelopment proposals on town centre sites to be relaxed where appropriate.

***This application site is a brownfield redevelopment site and although not within the designated town centre, it is in very close proximity. The parking standards comprise 93 spaces of which 5 will be reserved for disabled use. Due to the location of the site adjacent to the town centre and Kilmarnock Railway Station and Bus Station, a reduction in car parking is considered to be appropriate in these circumstances and the proposed development is not considered to be contrary to the above policy.***

5.10 Policy T 6 requires the submission of a Transport Assessment where appropriate.

***A Transport Assessment has been provided.***

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

6.1 The principal material considerations relevant to the determination of the applications are the site's planning history, consultation replies and representations detailed in Sections 3 and 4 of the report.

### Planning History

6.2 01/0559/OL outline planning consent was approved by the Central Local Planning Committee on 02 August 2002 for Class 4 offices and a flatted residential development.

***This Reserved Matters application is in accordance with the outline consent.***

6.3 A planning application ref. No. 03/0056/RM for the proposed erection of 98 dwellings incorporating 78 flats, 20 terraced townhouses on the same site and a planning application ref: 02/0894/FL for a new health club (for the residents

use only) was appealed by the applicant on the basis of non determination following the meeting of the Development Services Committee where the application was continued on 08 April 2003. The appeal was subsequently dismissed by the Scottish Ministers.

#### Reporter's Decision on 03/0056/RM and 02/0894/FL

6.4 The key points of the Reporter's findings on the previous application are as follows:-

- The vertical and horizontal deficiencies of Hill Street were noted but that these positively encouraged traffic calming and that the access details satisfied the Roads and Transportation Division. The Reporter was aware that for central sites in towns, ideal access solutions were rare and that access alone could not be a reason for refusal based upon the Roads and Transportation Division's opinion.
- Accepted the relaxation in the number of car parking spaces.
- Supported a suitable contemporary solution in accordance with ENV 8 (v).
- Reservations regarding extensive range of materials proposed which would be out of character with the restrained use of materials on established listed buildings.
- Suggested a more imaginative landscaping layout, paying greater heed to the relationship of the site and its redevelopment to listed buildings.
- The height of the proposed development dominates the railway viaduct and creates a tunnelling effect on Hill Street.
- The proposed development reduces the role of the West High Church as a landmark in the area and would obliterate views of the Church from the station platform.
- The proposed development would exclude views or allow only limited views of St Joseph's Church from the Station, railway viaduct and other adjacent streets.

***Since the previous application the development has been wholly reassessed in an attempt to address the Reporter's concerns. The number of dwellings has been reduced and the terraced town houses deleted in addition to the health club. The views of St Joseph's Church will be framed from Portland Street and Garden Street by pavilion buildings and a viewing platform will be formed off Garden Street. Views of St Joseph's from the Station Platform have been maintained by***

***reducing the height of the buildings at the bend off Hill Street to single storey with a roof terrace. The hard and soft landscaping will be formed using quality treatment and planting specification.***

### Consultations and Representations Received

6.5 The consultations and representations received have been fully addressed in Sections 3 and 4 of the report. It is not considered that these highlight issues or are of such weight as to merit refusal of the application; rather where there are concerns these have been satisfactorily addressed in the submission or can be dealt with by condition.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

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

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report, the application is 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 5 of this report the EALP is supportive of the proposal and it is in accordance with advice detailed in the East Ayrshire Council Design Guidance. The development fails to meet the public and private open space standards detailed in the above plan, however it is considered that a relaxation can be justified in this instance due to the location of the development site, its relationship with surrounding properties and the nature of the development which would secure the removal of a derelict vacant site. Useable public open space has been provided and it contributes to upgrading the general amenity of the area with private open space provided where possible in the form of roof terraces that are a modern form of private space adding vibrancy to the scheme and interest to the surrounding area.

8.3 The application site occupies an elevated position to the north end of the town centre immediately adjacent to the railway station/viaduct and a number of ecclesiastical listed buildings. It is a very prominent site in the townscape and the development provides a bold, positive modern contemporary solution taking full advantage of the landscape characteristics and topography of the site. It is considered that the development adds contrast and character and will integrate within the townscape and skyline. The development embodies advice from recent publications from the Scottish Executive on Architecture which

encourages innovatively designed development to make the most of its setting in the landscape to result in it being unique and distinctive to its location rather than duplicating design from a past era. On a development of this scale, it is the attention to detail and the quality of external materials that will elevate the quality of the end result. The external materials include traditional elements of slate and stone which will be enhanced with more modern materials providing a contrast that will result in a superior quality of development for the 21<sup>st</sup> Century.

8.4 The concerns of the objectors are noted however they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns regarding road safety have not been supported by the Roads Division. The site's proximity to the town centre and the railway station are opportunities for a successful residential development of an appropriate urban scale. It is considered that not only is the setting of St Joseph's much better served by the present proposals than it was by the previous development proposal, but the current proposal fully reflects its surrounding built environment. There was significant encroachment previously by Kilmarnock Infirmary around St Joseph's. This has now been avoided by the use of well spaced pavilions set at a lower height than previously proposed with tree lined pedestrian walkways, areas of amenity grass with the use of quality materials and varying roof and stepped elevations styles to create interest and maintain and enhance heights to important buildings and structures in the surrounding area. Being within the centre of Kilmarnock the development form in this area is one of dense and higher buildings. The proposal will provide a development frame for St Joseph's that will have a lesser detrimental impact on St Joseph's than did the previous infirmary and by virtue of the revised proposals will maximise the church's position presiding over the town centre. It is considered that the revised proposal meets the findings of the Reporter to the Scottish Ministers on appeal.

8.5 The development will add considerably to the amenity of the area by developing a derelict vacant site and replacing it with well designed modern housing development. The development will provide an important and enduring addition to Kilmarnock's built environment.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheets attached to this report.**

## **CONTRARY DECISION NOTE**

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

the application will not require to be referred to the Development Services Committee because there would be no significant breach of Council policy.

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

01 November 2004  
(FMF/MMM)  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Transport Assessment.
3. Statutory Notices/Certificates.
4. Consultations.
5. Letters of Objection and Support.
6. Approved Ayrshire Joint Structure Plan.
7. Adopted East Ayrshire Local Plan.
8. Scottish Executive:
  - The Development of a Policy on Architecture for Scotland.
  - A Policy Statement for Scotland.
9. Planning Application Nos: 01/0559/OL, 03/0056/RM, 02/0894/FL and appeal decision.

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

***Implementation Officer: Dave Morris***

040653RM

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0653/RM

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Site of Proposal:	Former Site of Kilmarnock Infirmary/ Hill Street/ Garden Street/Portland Street, Kilmarnock
Nature of Proposal:	Proposed Residential Development for Ninety One Dwellings
Name & Address of Applicant:	Klin Holdings Ltd 27 John Finnie Street KILMARNOCK KA7 1B L
Name & Address of Agent:	Gillespies Ltd 21 Carlton Court GLASGOW G5 9JP

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DPOs Reference: FMF/MMM

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

1. The proposed development shall be carried out in accordance with the application form and the following submitted plans - drawing no. 3803A-01A,02,03,04A,005,006,007A,08,09,011B,012B,013,014,015,016,017,018B,021 A,022A,023B,024,025A,026A,027A,028,031, 032, 033, 034, 035, 036, 037A, 038, 039 and 50 and the Transport Assessment received on 24 September 2004 and supplementary details received from Miller Allan dated 07 October 2004.

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

2. Notwithstanding the plans hereby approved under the terms of Condition 1 above, details/samples of all external materials to be used for the apartment blocks and pavilions shall be submitted to and approved by the Planning Authority before development commences on site. Where it is required, sample

panels shall be constructed on site for the approval of the Planning Authority and the details shall thereafter be implemented on site as approved.

REASON In the interests of achieving a quality development in the interests of visual amenity.

3. Notwithstanding the details approved under the terms of Condition 1 above, details and samples of the materials of all external ground surfaces and boundary treatments within the development site shall be submitted to and approved by the Planning Authority before development commences on site and shall be thereafter implemented on site as approved.

REASON In the interests of achieving a quality development to the benefit of visual amenity.

4. Notwithstanding the approved details, under the terms of Condition 1 above plans to a minimum scale of 1:50 shall be submitted to and approved by the Planning Authority before development commences on site of the following details and design features:

- i) The interface between a change in materials or colour of materials.
- ii) The details between window and door frames and window and door surrounds.
- iii) Balustrades on buildings and boundary treatments.
- iv) The monopitch dormers.
- v) The angular roofs of the apartment blocks and pavilions.
- vi) Ridge details, gutters, downpipes, barge boards.

The above details shall be implemented as approved.

REASON In the interests of achieving a quality development to the benefit of visual amenity.

5. In terms of the details to be submitted under Conditions 3, 4 and 5 above, prior to the commencement of development on site a meeting shall be held with the Design Team, developer and Planning Authority to agree design details and materials of the development. Thereafter progress meetings between these parties shall be held on a monthly basis or as otherwise required, following the commencement of development on site.

REASON To allow the Planning Authority retain control over the development of the site as this is an important site within Kilmarnock townscape.

6. The roofs of all buildings within the site with the exception of the pavilions as detailed on the approved plans shall be covered in natural slates.

REASON In the interests of visual amenity and to maintain the quality of the development.

7. Notwithstanding the submitted plans, a landscaping scheme including the treatment of the boundary of the site/areas for public open space and including details of the proposed phasing of the development shall be submitted to and approved by the Planning Authority prior to commencement of any development. The scheme shall be implemented not later than the next appropriate planting season after the development has been carried out. Any trees removed without consent of the Planning Authority or seriously damaged at any time thereafter shall be replaced by trees of similar size or species as may be agreed in writing with the Planning Authority. The landscaping scheme shall include the retention of as many of the existing trees on site and shall indicate any phasing details relevant to the provision of landscaping on site.

8. The landscaping/open space relating to this development as part of Condition 9 above shall be laid out simultaneously with the development, or each phase thereof, and shall be maintained thereafter in accordance with a maintenance scheme to be submitted to and approved by the Planning Authority prior to the commencement of development on site.

REASON To ensure that public open space areas are laid out in a proper manner in the interests of residential amenity.

9. Notwithstanding the approved plans, details and landscaping of the treatment of the communal bin stores and their implementation shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented according to the approved details.

REASON In the interests of visual amenity.

10. No trees shall be felled, lopped, have roots cut, or be the subject of any other works without the written consent of the Planning Authority.

REASON In the interests of visual amenity and to maintain wherever possible the existing visual contribution of the trees to the amenity of the area.

11. Notwithstanding the approved plans, under the terms of Condition 1 above, details of the design, height 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 and shall thereafter be implemented on site as approved.

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

12. Notwithstanding the terms of Conditions 1 and 11 above, the stone wall and existing metal railings along the site boundary to the north east of the site at Portland Street/Garden Street shall be retained and the details to be submitted for the written approval of the Planning Authority under the terms of Condition 11 above shall include details allowing for the retention of and any remedial works to this wall and railings.

REASON In the interests of retaining the historic wall and railings of the former Kilmarnock Infirmary..

13. Notwithstanding the approved plans under the terms of Condition 1 above details of all traffic calming features within the internal road layout shall be submitted to and approved by the Planning Authority prior to the commencement of work on site. These details shall include the delineation of turning areas whether it be through the use of different materials or landscaping whilst retaining the required geometry for service vehicles. The traffic calming as approved shall be implemented prior to the occupation of the first dwelling.

REASON In the interests of road safety.

14. Notwithstanding the approved plans under the terms of Condition 1 above, details of measures to prevent unauthorised use of the parking spaces shall be submitted to and approved by the Planning Authority and implemented thereafter according to the approved details.

REASON The development may be the subject of unauthorised parking due to its close proximity to the town centre.

15. Prior to any work commencing on site, details of a phasing plan for the provision of car parking in accordance with the phasing of the construction of dwellinghouse shall be submitted to and approved in writing by the Planning Authority and shall thereafter be implemented as approved. No flat shall be occupied unless the agreed parking provision is in place on site.

REASON In order to ensure the provision of car parking within the site.

16. No storage of building materials or re-fuelling of plant shall take place adjacent to surface water areas and drains.

REASON In order to prevent the contamination of surface water.

17. All bulk fuel, if left on site overnight during construction works, shall be stored in a vandal-proof shed.

REASON In order to prevent the contamination of surface water.

18. 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

19. Notwithstanding the approved plans, details of the design of the lighting columns and any external building floodlighting scheme to be erected within the site shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented thereafter according to the approved details.

REASON In the interests of visual amenity.

20. No materials other than top soil shall be brought onto the site for purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in making up of ground levels.

21. Notwithstanding the approved plans, details of the design and construction of the pedestrian access from the development site onto Portland Street and Garden Street shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and implemented on site prior to the occupation of any of the apartments in the northernmost pavilion of the development for Portland Street and pavilions C and D for Garden Street.

REASON To allow pedestrian access to Portland Street and the town centre.

22. 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 long term previous hospital 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 asbestos lagging, all pipes, underground services on site 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 residential amenity and public safety.

23. On completion of the remedial works approved under the terms of Condition 21 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.

24. Notwithstanding the approved site plan, the location of bin stores within the application site is not approved. Prior to any works commencing on site, the developer shall submit two copies of a location of the bin stores which shall include provision for the storage needs of a 3-bin re-cycling system. These details shall be approved by the Planning Authority and implemented prior to the occupation of any flats on site.

REASON In order to ensure that adequate refuse storage provision exists and that the bin stores within the application site are located so as to be accessible to the Council's refuse vehicles for the uplifting of refuse.

25. No external construction work shall take place on site in relation to the proposed development at any time on Sundays, without the prior written consent of the Planning Authority.

REASON In order to respect the amenity of the adjacent St Joseph's Church.

26. Prior to commencing any work on site full details of proposed ground and finished floor levels shall be submitted to and approved in writing by the Planning Authority and shall thereafter be implemented on site as approved.

REASON In order to ensure the implementation on the proposed structure in accordance with the approved details.

NOTES:-

1. SEPA's pollution prevention Guidance Note 6 "Working at Construction and Demolition Sites" should be followed and copies of this document are available at [www.sepa.org.uk/guidance/ppg/ppg06.pdf](http://www.sepa.org.uk/guidance/ppg/ppg06.pdf).
2. Early contact is recommended with Scottish Water at 35 Glenburn Road, Prestwick regarding connecting to the public sewerage system.
3. 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.
4. The applicant should ensure that prior to development commencing on site, they have secured agreement from Scottish Water regarding the suitability of all proposed drainage connections and the suitability of the existing infrastructure to accommodate such connection.