

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 14 OCTOBER 2005

**05/0948/FL: PROPOSED RESIDENTIAL DEVELOPMENT
AT 15 NURSERY AVENUE, KILMARNOCK
BY JC MORTON HOMES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of 28 no. 2-bedroom flats. 23 of the proposed flats are proposed to be located within an extended two-and-a-half storey block which has a frontage to New Mill Road/Nursery Avenue whilst a further 5 flats are located within a two-and-a-half storey block situated in the north-west of the application site. The proposed buildings are of a contemporary design, with design features echoing the traditional tenement properties on New Mill Road/Nursery Avenue with a three storey portion at the corner of Nursery Avenue/New Mill Road which incorporates a bay window design feature that enhances the junction of the aforementioned streets. Access to the rear parking courtyard and private amenity space is proposed to be taken from Nursery Avenue immediately to the south of the tenement property at No. 13 Nursery Avenue with a one-way system being adopted within the courtyard resulting in egress from the parking courtyard to be taken onto New Mill Road by means of a road to be situated between the proposed flats and the tenement property at 10 New Mill Road. The proposed parking courtyard makes provision for bin storage, 34 resident car parking spaces and 999 square metres of private amenity space. Materials proposed are the use of a slate substitute concrete roof tile, white dry dash render and red cast stone feature panels to the window surrounds and cills. The proposed flats to be located within the attic space, utilise velux windows, with five of the proposed flats incorporating a roof terrace to the rear of the roof space.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is considered to be in accordance with the Development Plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Plan (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 consultation responses received raise no adverse comments meriting refusal of the application. The concerns of the objectors are not considered to be of sufficient weight to justify a refusal of this application as it is not considered the proposed development will have an adverse impact on the residential amenity and privacy enjoyed by the adjacent residents. The objectors' concerns in relation to car parking provision are not echoed by the Roads & Transportation Division. It is considered that the development is of an appropriate size, scale and design that is compatible with, and complements 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 derelict vacant site and replace it with a modern residential development.

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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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 a larger application which accords with the East Ayrshire Local Plan, is of area significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site extends to approximately 0.33 hectares in area and comprises the vacant former Anderson and Innes building and its curtilage. The site was previously used as a joinery and builder's business, which closed last year. The site is surrounded to the north and west by traditional 2-storey tenement flats and by modern 2-storey dwellings constructed by KLIN Homes within the past 5 years to the east. Immediately to the south of the application site there is the derelict former Booker Cash and Carry site which is subject to a separate planning application for a flatted residential development. To the north-west of the site there are allotments.

2.2 **Proposed Development:** Full planning permission is sought for the erection of 28 no. 2-bedroom flats. 23 of the proposed flats are proposed to be located within an extended two-and-a-half storey block which has a frontage to New Mill Road/Nursery Avenue whilst a further 5 flats are located within a two-and-a-half storey block situated in the north-west of the application site. The proposed buildings are of a contemporary design, with design features echoing the traditional tenement properties on New Mill Road/Nursery Avenue with a three storey portion at the corner of Nursery Avenue/New Mill Road which incorporates a bay window design feature that enhances the junction of the aforementioned streets. Access to the rear parking courtyard and private amenity space is proposed to be taken from Nursery Avenue immediately to the south of the tenement property at No. 13 Nursery Avenue with a one-way system being adopted within the courtyard resulting in egress from the parking courtyard to be taken onto New Mill Road by means of a road to be situated between the proposed flats and the tenement property at 10 New Mill Road. The proposed parking courtyard makes provision for bin storage, 34 resident car parking spaces and 999 square metres of private amenity space. Materials proposed are the use of a

slate substitute concrete roof tile, white dry dash render and red cast stone feature panels to the window surrounds and cills. The proposed flats to be located within the attic space, utilise velux windows, with five of the proposed flats incorporating a roof terrace to the rear of the roof space.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division, have no objections to the proposed development subject to conditions regarding re-surfacing of the footway on Nursery Avenue/ New Mill Road, the service access being constructed to an adoptable standard, utilising a one-way system with access via Nursery Avenue and egress onto New Mill Road and the formation of over-run areas at the entrance and exit points to allow service vehicles to manoeuvre.

The requirements of the Roads Division can be addressed by attaching suitably worded conditions to any grant of planning consent.

3.2 East Ayrshire Council's Environmental Health and Waste Management Division have no objections to the proposed development but have advised that due to the previous uses on the site the potential for soil contamination cannot be ruled out. A full site investigation is required in line with PAN 33 to assess the risk of exposure to contaminants in the soil (if present) to key receptors.

The requirements of Environmental Health can be addressed by attaching appropriate conditions to any grant of planning consent regarding a full site investigation in terms of contamination matters.

3.3 Scottish Water object to this application although indicates their objection can be deemed withdrawn if the applicant can reach agreement with Scottish Water in relation to the provision of a drainage and/or water scheme to serve the development and a sustainable urban drainage (SUDS) system is utilised to deal with surface water drainage

Noted. An appropriately worded note and conditions 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.

3.4 Scotland Gas Networks (formerly Transco) have no adverse comments to make in relation to the proposals although have advised that the applicant make contact with Scotland Gas Networks prior to the commencement of development on-site

Noted. An appropriately worded note can be attached to any grant of planning consent advising the applicant to contact this

utility body prior to the commencement of development on-site.

3.5 Scottish Environment Protection Agency (SEPA), Piersland/Bentinck Community Council and West of Scotland Archaeological Service have not responded to their consultation letter at the time of writing this report.

Noted.

3.6 East Ayrshire Council's Outdoor Amenities Section have no adverse comments to make on this application.

Noted.

4. REPRESENTATIONS

4.1 There are 3 objectors to the proposed development, including the objection received from Scottish Water detailed at 3.3 above. A summary of the grounds of third party objection is presented below.

4.2 They believe the proposed parking for the development is insufficient whilst there is no additional parking outside the development which causes concern as a result of New Mill Road and Nursery Avenue being a busy thoroughfare for buses and HGVs.

Noted. East Ayrshire Council's Roads & Transportation Division have no adverse comments to make on the proposals in relation to parking provision.

4.3 The proposed block of flats in the middle of the site would be totally out of character with the surrounding area and encroach on the privacy of the existing flats on Nursery Avenue. They believe this area should be utilised for additional car parking

Noted. It is considered the design of the proposed block located to the north west of the application site is a contemporary design reflecting the design, scale and height of the existing tenement properties on New Mill Road and Nursery Avenue. As such it is considered to be in keeping with the surrounding area. In relation to privacy there are no windows proposed on the eastern elevation of the block whilst the developer proposes to install a 1.8 metre high timber fence to maintain the privacy of the residents of both 5-13 Nursery Avenue and the future residents of the proposed development. In relation to the objectors comments on parking provision Members are referred to 4.2 above.

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).

Ayrshire Joint Structure Plan (AJSP)

5.2 The proposed development does not raise issues of a strategic nature.

East Ayrshire Local Plan

5.3 Policy RES 4 encourages the sympathetic residential development of gap, infill or other re-development sites which are to be assessed against the four stated criteria:-

- (i) Impact on the surrounding natural and built environment and adjacent uses;
- (ii) Transportation and infrastructure implications;
- (iii) Compatibility with surrounding densities and housing types;
- (iv) Compliance with the Council's Development Promotion and Design Guidance.

The proposed development is considered to accord with Policy RES 4 as it is compatible with the surrounding housing and uses. The proposed development respects the design and storey heights of the adjacent traditional tenement properties while the portion of the building which rises to three stories at the corner of New Mill Road and Nursery Avenue makes a design feature of this junction with no windows directly overlooking the adjacent residential dwellings at Nursery Gardens as a result of the orientation of the window fenestration. The Roads Division have not raised any adverse comments. Other consultees have not raised any adverse comments in terms of infrastructure provision, with the exception of Scottish Water, whose objection can be addressed by means of attaching a suitably worded condition. The development has also been assessed against the Council's Design Guidance in Section 5.4 below and it is considered to be consistent with this Guidance.

5.4 Policy ENV 7 requires developers to comply with the Council's Design Guidance. The Design Guidance requires that house design of infill sites recognises and reflects the scale, design features, density and materials of surrounding buildings and reflects and respects the built form of the surrounding area so as to integrate with existing buildings. The height and position of houses should not have an oppressive, overshadowing or visually intrusive impact on neighbouring properties.

It is considered that the proposed development accords with Policy ENV 7 and the Design Guidance as the development has been designed and sited to minimise its impact on adjacent residential properties whilst being compatible with the surrounding area in terms of its height and appearance.

The proposed flatted dwellings are not visually intrusive nor will they have an overbearing or oppressive impact on adjoining dwellings, whilst the proposed cast stone feature panels, window surrounds and cills are considered to compliment the traditional tenement properties on New Mill Road and Nursery Avenue.

5.5 Policy TLR5 requests all potential developers of residential sites comprising four or more houses to enter into a Section 75 Agreement for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the development relates.

The applicant has advised they are willing to make a contribution of £2500 towards the Sports, Leisure and Recreation Fund.

5.6 The proposed development accords with Policy RES 22 as sufficient amenity open space has been provided for the development.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultations which are detailed in Section 3 of the report and the planning history of the site.

Consultations Received

6.2 The consultations have been fully addressed in Section 3 of the report. It is not considered that any aspects of the consultation responses raise any issues that would warrant the refusal of this application.

Planning History

6.3 05/0675/FL - A previous application was submitted in respect of this site for 25 2-bedroom flats and 4 terraced town houses to the north-east of the application site. Following discussions with this Division it was considered that the proposals were not in keeping with the area as a result of the proposals being three storey in height whilst the private garden ground provision was not considered acceptable. Following discussions with this Division this application was withdrawn in favour of the application now before Members for determination.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Legal implications would arise from the Council entering into a Legal Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant. The Section 75 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 indicated in Section 5 of the report the application is considered to be in accordance with the Development Plan. Therefore given the terms of Sections 25 and 37 of the Town and Country Plan (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 consultation responses received raise no adverse comments meriting refusal of the application. The concerns of the objectors are not considered to be of sufficient weight to justify a refusal of this application as it is not considered the proposed development will have an adverse impact on the residential amenity and privacy enjoyed by the adjacent residents. The objectors' concerns in relation to car parking provision are not echoed by the Roads & Transportation Division. It is considered that the development is of an appropriate size, scale and design that is compatible with, and complements 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 derelict vacant site and replace it with a modern residential development.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, 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

05 October 2005
(BD/MMM/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. Planning Application No. 05/0675/FL

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0948/FL

Site of Proposal:	15 Nursery Avenue KILMARNOCK
Nature of Proposal:	Proposed Erection of Residential Development
Name & Address of Applicant:	J C Morton Homes Ltd The Cross Templehill TROON KA10 6DE
Name & Address of Agent:	Canata & Seggie Architects 7 Union Street GREENOCK PA16 8JH

DPOs Reference: (BD/MMM/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 received on 07 September 2005 and the amended plans received by the Planning Authority on 06 October 2005.

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

2. All of the car parking spaces shown on the site plan hereby approved shall be formed prior to the occupation of any of the residential units to which this permission relates.

REASON To ensure that the required car parking facilities exist within the site in order to discourage residents parking vehicles on the public road.

3. Prior to any work commencing on site, details and samples of all external finishes shall be submitted to and approved in writing by the Planning Authority and thereafter shall be implemented on site as approved. These

details shall include the use of either natural slate or a good quality slate substitute tile, the use of cast stone and render.

REASON In the interests of visual amenity.

4. Notwithstanding the submitted plans and prior to any work commencing on site details and samples of the proposed design and materials of the windows shall be submitted to and approved by the Planning Authority and shall be implemented on site as approved.

REASON In the interests of visual amenity.

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

- i) The nature, extent and type(s) of contamination on the site;
- ii) A site specific risk assessment of all relevant pollutant linkages;
- iii) Remedial measures to treat/remove contamination to ensure the site is fit for the use of proposed use;
- iv) Measures to deal with unsuspected contamination discovered during construction works;
- v) Condition of the site on completion of de-contamination measures;
- vi) Details of measures to remove all pipes, interceptor and underground storage tanks on site as a filling station use and remedial measures to fill the ground levels facing their removal.

REASON In the interests of public safety.

6. 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.

7. On completion of the remedial works approved under the terms of Condition 5 above, and prior to any of the residential units being occupied, the developer shall submit a report which will 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.

8. A landscaping scheme for the amenity open space areas shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and shall be implemented not later than the next appropriate planting season after the occupation of the first residential property. The scheme shall include details of the maintenance

arrangements and the landscaping shall thereafter be maintained in accordance with these details.

REASON To ensure that the site is adequately landscaped and is subsequently maintained in the interests of residential and visual amenity.

9. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be formed and maintained on site in accordance with the approved details prior to the occupation of any of the residential units.

REASON To ensure that adequate drainage is provided.

10. During the period of construction works, the developer of the site shall arrange for adequate and continuing measures to be taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

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

11. The development hereby approved shall be undertaken without detriment to neighbouring residential properties by virtue of noise, dirt or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

12. No external construction work, site clearance or preparation works shall take place before 08.00 hours and after 17.00 hours on Mondays to Fridays, before 8:00 hours and after 13:00 hours on Saturdays, nor at any time on Sundays.

REASON In the interests of residential amenity.

13. Notwithstanding the approved plans, details of the provision for the storage of refuse bins and the treatment of these 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 residential units. These details shall take cognisance of the storage needs of the Council's three bin re-cycling system.

REASON To ensure adequate access to and treatment of bin storage accommodation provision in the interests of the amenity of the area.

14. No burning of waste or other materials shall take place on site at any time.

REASON In the interests of the amenity of the area.

15. Notwithstanding the submitted plans details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site. There shall thereafter be implemented as approved prior to the occupation of any of the dwellings hereby approved.

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

16. Notwithstanding the submitted plans, details of the treatment of the northern, eastern and western boundaries of the site shall be submitted to and approved by the Planning Authority prior to the commencement of development on site. These shall be implemented as approved prior to the occupation of any residential units.

REASON In the interests of visual and residential amenity.

17. Notwithstanding the submitted plans, details and samples of all external materials to be used in the construction of the car parking surface and footways shall be submitted to and approved by the Planning Authority in writing prior to the commencement of development on site. These shall be implemented and maintained thereafter as approved.

REASON In the interests of visual amenity.

18. Notwithstanding the submitted plans the proposed road layout within the application site shall adopt a one-way system with access to the development from Nursery Avenue and egress from the development via New Mill Road prior to the occupation of the first dwelling house.

REASON In the interests of road safety

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 agreement from 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.
5. The developer shall make early contact with Scotland Gas Networks (Tel. 0141 418 4093) in relation to the location to gas mains within the proximity of the application site. Scotland Gas Networks can be contacted on 0141 418 4093.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**