

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 16 SEPTEMBER 2004**

**04/0665/FL: PROPOSED RESIDENTIAL DEVELOPMENT  
AT: FORMER BMK BUILDING, 8 LAWSON STREET, KILMARNOCK BY  
LUMAX HOMES LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Full planning permission is sought for the erection of six 3 bedroom semi detached two-storey dwellings to be accessed from Riverbank Place and for five 2 bedroom flatted units located within a 2 <sup>3</sup>/<sub>4</sub> storey building to be located within the north of the application site. The principal elevation will face on to Lawson Street and the application site also includes the provision of off-street parking and private amenity space for all of the residential units. The semi-detached houses and flatted dwellings are proposed to be finished in buff and red/brown facing brick with red/brown concrete roof-tiles.

#### **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 at Section 5 of the report the application is considered for the most part to accord with the policies of the Adopted East Ayrshire Local Plan. Whilst the proposed development is contrary to Policy IND5 it meets the provisions of the remaining relevant policies. 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, it is not considered that the issues raised indicate that the application should be refused.

3.3 The proposal development is considered to be of an appropriate size, scale and design that is compatible with surrounding residential dwellings. The proposals in overall terms also meets the requirements of the private amenity standards outlined in Schedule 4 of the Adopted EALP. Furthermore, whilst the removal of the existing industrial building is contrary to the terms of Policy IND 5 of the Adopted EALP it can be supported as detailed in paragraph 5.4 of this report.

## **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 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 & 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 residential development in excess of 10 units.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site relates to a site comprising an industrial unit previously occupied by BMK. The site lies to the south-east of Kilmarnock town-centre and extends to approximately 0.23 hectares. The site is bound to the north and east by modern terraced and flatted dwellings on Lawson Street and Waulkmill Place. To the west of the application site are other industrial units of a similar size and scale to the existing building, while to the south of the application site is Riverbank Place beyond which is the River Irvine.

2.2 **Proposed Development:** Full planning permission is sought for the erection of six 3 bedroom semi detached two-storey dwellings to be accessed from Riverbank Place and for five 2 bedroom flatted units located within a 2 ¾ storey building to be located within the north of the application site. The principal elevation will face on to Lawson Street and the application site also includes the provision of off-street parking and private amenity space for all of the residential units. The semi-detached houses and flatted dwellings are proposed to be finished in buff and red/brown facing brick with red/brown concrete roof-tiles.

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

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the proposal in respect of access and parking facilities proposed. The Roads and Transportation Division were also consulted in respect of the flood risk of the site due to its proximity to the River Irvine and have no objections as the site is "brownfield" and designed flood prevention measures protect the area from overtopping of the River Irvine. It is noted that whilst flood prevention measures reduce the probability of flooding but they cannot eliminate it entirely. Furthermore, clarification is sought relative to the drainage arrangements and how the development proposes to dispose of all surface water.

***Noted. It is considered that if Members choose to grant consent, appropriate advisory notes can be attached that will draw the developers attention to the response regarding flood risk and the necessity of agreeing drainage arrangements with Scottish Water. Members are also advised that this response relates to SEPA's comments in Section 3.6 of this report.***

3.2 Transco and PowerSystems have no adverse comments to make in relation to this application.

***Noted.***

3.3 The Piersland/Bentinck Community Council and the East Ayrshire Council Access Officer have not responded to their consultations at the time of writing this report.

***Noted.***

3.4 The East Ayrshire Council Environmental Health, Licensing & Community Safety Division have no objections to the application but have advised the following:

(i) The demolition of the existing industrial buildings and subsequent site engineering works should be carried out in such a manner as will not give rise to noise, dust or smoke nuisance to neighbouring residential properties.

(ii) It is requested that prior to any demolition works taking place a survey of the premises should be carried out to determine if any asbestos might be present, and if so to ensure that a suitable working-plan is prepared and adhered to for the safe removal and disposal of this material.

(iii) If any unspecified contamination is encountered during the demolition works suitable remedial actions should be employed to prevent exposure to key receptors and Environmental Health would request to be advised if any such eventuality arose. Environmental Health have advised that they would raise no specific contamination issues.

(iv) It is recommended that a condition be attached to ensure the provision of adequate bin storage accommodation to the satisfaction of the cleansing section and that the applicant liaise with the cleansing section at early date.

***Noted. The demolition of the existing factory building does not form part of this application, as its demolition does not require planning consent. The comments of Environmental Health have been passed to the developer for their information. A Building Warrant would be required for the demolition of the existing factory building, which would have regard to the treatment of any asbestos found on-site and it is not considered necessary for any planning conditions to be imposed in this respect should Members choose to grant consent.***

***Appropriate conditions could be added in respect of the provision of bin storage and to ensure that works on site do not adversely affect neighbouring residential units.***

3.5 Scottish Water objects to this application on the basis that the proposals would require the provision of infrastructure to serve the development that is outwith Scottish Water's reasonable cost obligations in terms of the Sewerage (Scotland) Act 1968. Scottish Water would remove its objection if the applicant:

- (a) Bears the cost of the increase in capacity of Scottish Water's existing infrastructure to accommodate their development; and/or
- (b) Promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system and which is in terms satisfactory to Scottish Power

***Noted. An appropriately worded note can be attached to any grant of planning permission to ensure that the applicants are aware of the need to agree drainage arrangements with Scottish Water***

3.6 The Scottish Environment Protection Agency (SEPA) have no objections to the proposed development provided drainage arrangements are to their satisfaction. SEPA have requested that the applicant undertake a risk assessment relative to whether contaminants from the site are entering or likely to enter controlled waters and at what concentration. Surface water should be treated in accordance with the principles of Sustainable Urban Drainage Systems. Suitable provision should also be made for waste storage at individual properties and the development as a whole.

***It is considered that these comments can be satisfactorily addressed by suitable planning conditions should Members choose to grant consent. Members are also referred to the comments of the Council's Environmental Health and Waste Management Division detailed in Section 3.4 above. Environmental Health have been forwarded SEPA's comments and consider that no conditions are necessary relative to pollutants and contamination on the site either at the moment or during the construction period other than for any contaminants found during site works because their records show no contaminants at this site.***

#### **4. REPRESENTATIONS RECEIVED**

4.1 There are no third party letters of representation. The comments of Scottish Water are noted in para 3.5 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).

### The Approved Ayrshire Joint Structure Plan

5.2 There are no specific policies within the Ayrshire Joint Structure Plan relevant in the determination of this application.

### The Adopted East Ayrshire Local Plan (EALP)

5.3 Policies **IND 5, RES 4, RES 22, ENV 7 & ENV 17** of the Adopted EALP are specifically relevant in the consideration of this application.

5.4 Policy **IND 5** safeguards those established industrial areas, as shown on the local plan maps, for business, industrial and storage and distribution uses. This policy was formulated in order to preserve existing industrial provision in the area, broaden the economic base of the area and minimise any adverse impact of the industrial and business development on the surrounding area.

***The proposed residential development is essentially contrary to Policy IND 5. The industrial building which currently occupies the application site is vacant and in a deteriorating condition. The application site is at the periphery of the Glencairn Industrial Estate and immediately to the eastern boundary of the application site there is a modern housing development of terraced and flatted dwellings. Although safeguarded for industrial use, the site is not considered to be prime quality industrial land and its use for residential purposes would not be incompatible with surrounding uses.***

***The applicant has submitted a letter from the letting agents for the factory confirming the property has been marketed since January 1999 for use as an industrial warehouse facility. It has failed to attract any interested parties to lease or purchase the property for industrial use. The letting agents confirm that, due to the building construction, layout and condition, they are of the opinion that the building is outdated and no longer suitable for industrial uses.***

***Due to the lack of demand for the continuing industrial use of the existing factory and as a result of the detrimental visual impact the derelict factory unit has on the area it is considered that housing development on this site is acceptable. Therefore an exception to policy IND 5 can be justified in this instance.***

5.5 Policy **RES 4** encourages the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguard or identified for particular development purposes on the Local Plan maps. Developments will be assessed against the impact on the surrounding natural and built environment and adjacent uses, transportation and infrastructure implications, compatibility with surrounding densities and housing types and compliance with the Council's Development Promotion and Design Guidance.

***The site adjoins an existing modern housing development at Waulkmill Place. Beyond the roadway to the north of the application site there are existing flatted dwellings on Lawson Street. To the west of the application site, adjoining the existing factory building, there are other industrial premises. It is considered that a housing development similar in quality to the existing housing to the east of the application site would be acceptable. The proposal does not conflict with this policy.***

5.6 Policy **RES 22** indicates that all developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

***The terraced dwellings meet the minimum open space standards, however, the amount of secluded open space related to the flatted dwellings falls short of the open space standards. It is not, however, considered that this shortfall is significant as it will not adversely affect the amenity of the overall development. The site is located in a fairly densely developed area and the conversion from industrial to residential use overall will much improve the visual amenity and character of the area. The semi detached dwellings exceed the requirements of the private open space standards and it is considered that when balanced against the shortfall for the flats this is not a material issue that would warrant refusal.***

5.7 Policy **ENV 7** requires developers to comply with the Council's Design Guidance in order to ensure that house design of infill sites recognises and reflects the scale, design features, density and materials of surrounding buildings and reflects and 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.

***As indicated above, the application site is bound to the east by modern 2 storey terraced and flatted dwellings at Waulkmill Place. To the north of the site there are 3 storey flats constructed at an earlier period. The external finishing materials proposed to be used on the***

***flats and semi detached dwellings include buff and red/brown facing brick, while the dwellings on Waulkmill Place are finished in similar colours of facing brick. It is considered that in terms of design, density and external finishes the proposed development will be fully in keeping with the existing dwellings in the vicinity.***

5.8 **Policy ENV 17** states that in areas that are known to have flooded in the past a precautionary approach to development will be pursued. The Council will require any developer wishing to develop land which has been known to flood in the past to fully investigate the implications of flood risk on their proposals and on adjoining land and property. Appropriate flood prevention measures should be incorporated into the design of their proposals so as to remove or reduce to an acceptable minimum, any adverse effects from flooding that may be experienced. The Council will also expect developers to enter into agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997, to provide and finance any necessary flood prevention infrastructure that may be required in association with their proposed developments.

***It should be noted that the site was the subject of flooding in the 1994. Flood prevention works have since been established in the vicinity of the site and East Ayrshire Council Roads and Transportation Division have no adverse comments to make in relation to flood risk at the application site as detailed in Section 3.1 of this report.***

## **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, neither of which indicate that the application should be refused.

### Consultations and Representations

6.2 The objection by Scottish Water can be addressed by attaching an appropriately worded note to any grant of planning consent to ensure that the developer is aware of the need to secure drainage arrangements to the satisfaction of Scottish Water. The other consultation responses received have no adverse comments to make on the application. The comments made by Environmental Health pertaining to the demolition of the building can be addressed by the Building Standards Section at such time as an application for a Building Warrant is made to demolish the existing factory. The demolition of the existing derelict factory unit does not form part of the application and does not require planning consent in this instance.

## Planning History

6.3 Planning Application No. 01/0219FL was refused by the Central Local Planning Committee on 16 August 2002. The proposal was for 14 residential dwellinghouses of terraced and semi detached two storey properties that face onto Lawson Street and Riverbank Place. The private amenity space pertaining to each dwelling ranged from 42m<sup>2</sup> to 100m<sup>2</sup> with only 3 of the 14 plots meeting the requirements of the EALP.

***Members are advised that the previous application was refused on the grounds that the proposals did not accord with Policy RES 22 of the East Ayrshire Local Plan (Finalised Version with Modifications) as the development failed to meet the private amenity space standards as set out in Schedule 4 of the EALP. Many of the plots in this proposal fell considerably short of the required levels of private amenity open space. As a result it was considered that the application at that time constituted an over-development of the site. This is not now the case.***

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

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

## **8. CONCLUSIONS**

8.1 As indicated at Section 5 of the report the application is considered for the most part to accord with the policies of the Adopted East Ayrshire Local Plan. Whilst the proposed development is contrary to Policy IND5 it meets the provisions of the remaining relevant policies. 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, it is not considered that the issues raised indicate that the application should be refused.

8.3 The proposal development is considered to be of an appropriate size, scale and design that is compatible with surrounding residential dwellings. The proposals in overall terms also meets the requirements of the private amenity standards outlined in Schedule 4 of the Adopted EALP. Furthermore, whilst the removal of the existing industrial building is contrary to the terms of Policy IND 5 of the Adopted EALP it can be supported as detailed in paragraph 5.4 of this report.

## **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 policy.

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

7 September 2004 (BD/SA)  
FV-DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans
2. Statutory Notices and certificates
3. Consultation responses
4. Approved Ayrshire Joint Structure Plan
5. Adopted East Ayrshire Local Plan
6. Planning Application no: 01/0219/FL

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

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0665/FL

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Site of Proposal: Former BMK Building  
8 Lawson Street  
KILMARNOCK KA1 3JP

Nature of Proposal: Proposed Private  
Residential Development

Name & Address of Applicant: Lumax Homes Ltd  
23 Main Street  
Craigie  
KILMARNOCK KA1 5LY

Name & Address of Agent: Maxwell Design Consultants  
23 Main Street  
Craigie  
KILMARNOCK KA1 5LY

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DPOs Reference: BD/SA

The above full application should be granted subject to the following conditions:

(1) The proposed development shall be carried out in accordance with the application form and plans received on 29 June 2004 and the amended elevation plan received by the Planning Authority on 2 September 2004.

REASON To ensure that 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 (including colours) shall be submitted to and approved in writing by the Planning Authority and thereafter should be implemented on site as approved.

REASON In the interests of visual amenity.

(4) A landscaping scheme 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.

(5) 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.

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

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

(7) 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.

(8) No construction work, site clearance or preparation works external to a building shall take place before 08.00 hours and after 17.00 hours on Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

(9) Notwithstanding the approved plans, details of the treatment of the area for the storage of refuse bins 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 3-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.

(10) No burning of waste construction or other materials shall take place on site at any time.

REASON In the interests of the amenity of the area.

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

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

(12) Prior to the commencement of development on site a method statement for construction works including detailed mitigation measures to ensure that any pollutants associated with these works do not cause pollution to the adjacent watercourse shall be submitted to and approved by the Planning Authority and implemented as approved. The applicant shall take into account SEPA's Pollution Prevention Guidelines 5 and 6 in the Method Statement (copies attached to the decision note).

REASON To prevent the pollution of the adjacent watercourse.

## **NOTE TO APPLICANTS**

1. The developer is advised to make early contact with Transco on 0141 418 4093 prior to starting works on site and to take any required action to satisfy Transco.

2. 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.

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 agreements 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. The applicant shall make early contact with Scottish Water, 35 Glenburn Road, Prestwick, KA9 2NS (0845 601 8855) regarding connecting to the public sewerage system and the suitability of infrastructure in that regard and to confirm whether diversion or protection of the public sewer is required. A totally separate drainage system of foul and surface water sewers will be required.

5. The applicant should make early contact with Power Systems as the development may affect Scottish Power apparatus in the area. Scottish Power can be contact on (0141) 567 4152.

6. The applicant shall make early contact with East Ayrshire Council Roads and Transportation Division regarding works within the road limits. The construction of the pedestrian footway will require roads construction consent. The East Ayrshire Council Roads and Transportation Division can be contacted on (01563) 576310.

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VIEWING PLEASE CONTACT (01563) 576790.**