

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 27 MARCH 2007

**04/0947/OL: MIXED USE DEVELOPMENT INCLUDING ERECTION OF
CLASS 4 OFFICE UNITS, PUB/RESTAURANT/TRAVEL LODGE
AT: SITE ADJACENT QUEENS DRIVE AND RIVER IRVINE,
KILMARNOCK
BY: G&M ESTATES**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning consent is sought for the provision of Class 4 office space and a restaurant/pub facility to the western (Queens Drive) boundary of the application site. The applicant retains reference to a travel lodge facility in the development description although such a facility is not specifically detailed on the amended site layout plans. The applicant has, however, indicated in writing that they wish to achieve planning consent for a wide range of uses, including potentially a "travel lodge" use to ensure the site has consent for an appropriate mixed use development. The provision of ground preparation works to create a level surface to allow the formation of a sports pitch by a recognised sporting organisation is to be carried out at land immediately adjacent the River Irvine to the eastern boundary of the application site. This outline planning application seeks consent only for the proposed erection of buildings to accommodate the proposed uses and the means of access to the site. Details of the design of the buildings, car parking arrangements and landscaping details will require to be determined as part of any future reserved matters application should this outline consent be granted. A Flood Risk Assessment and Transportation Assessment was also submitted as part of the proposed development.

2. RECOMMENDATION

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

3. CONCLUSIONS

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

3.2 As indicated in Section 6 of the report there are material considerations relevant to this application. The consultation responses received are detailed at Section 3 of the report, none of which indicate the proposed development should be refused. The comments of the third party objector, whilst noted, are not considered of sufficient weight to justify the refusal of the proposed development as their concerns relative to flooding are not echoed by the Councils Roads Division or SEPA. The comments of Scottish Water can be addressed by means of attaching appropriately worded conditions and notes on any grant of planning consent. The proposed development will provide a comprehensive mixed use development including offices and a restaurant/public house/ travel lodge on the last frontage site identified for development on Queens Drive. The site has been overgrown and undeveloped for many years and the granting of this outline consent should act as a catalyst for a future detailed planning application being received, with the re-development of the site following in due course.

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 an outline planning application which is to be considered by the Development Services Committee under the scheme of delegation as it is a larger scale development which is subject to objections and the Council have an interest in the application site, being owners of part of the site.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises approximately 4.67 hectares of undeveloped land to the left bank of the River Irvine at Queens Drive. The site is bounded to the north and east by the River Irvine, to the west by Queens Drive and the Reg Vardy car showroom, with the Odeon Cinema, Burger King, Parched Poet Restaurant/ Public House; Kentucky Fried Chicken; Fitness First Leisure Centre and Homebase DIY store beyond. To the south of the application site is an area of vacant land with the Ford and Citroen Car Showrooms beyond.

2.2 **Proposed Development:** Outline planning consent is sought for the provision of Class 4 office space and a restaurant/pub facility to the western (Queens Drive) boundary of the application site. The applicant retains reference to a travel lodge facility in the development description although such a facility is not specifically detailed on the amended site layout plans. The applicant has, however, indicated in writing that they wish to achieve planning consent for a wide range of uses, including potentially a "travel lodge" use to ensure the site has consent for an appropriate mixed use development. The provision of ground preparation works to create a level surface to allow the formation of a sports pitch by a recognised sporting organisation is to be carried out at land immediately adjacent the River Irvine to the eastern boundary of the application site. This outline planning application seeks consent only for the proposed erection of buildings to accommodate the proposed uses and the means of access to the site. Details of the design of the buildings, car parking arrangements and landscaping details will require to be determined as part of any future reserved matters application should this outline consent be granted. A Flood

Risk Assessment and Transportation Assessment was also submitted as part of the proposed development.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the proposed development and have commented as follows:

Access to the site

The Roads Division have no objections to the proposed access to the development although have advised that the internal road layout indicated would not be acceptable to the Council's Roads and Transportation Division.

Flooding

A flood risk assessment was carried out as part of the proposed development and as such the Roads Division advise they have no further comments relative to flood-risk. The area of compensatory flood storage within the application site is noted whilst the finished floor levels of the proposed buildings require to be shown at a minimum of 24.67 metres ordnance datum.

The requirements of the Roads Division relative to finished floor levels can be met by attaching suitably worded conditions to any grant of Planning Consent. Consideration of the proposed internal road layout and car parking layout on-site would be subject to a future reserved matters application

3.2 Scotland Gas Networks (formerly Transco) and Power Systems and East Ayrshire Council's Administrative and Legal Services have no objections to the proposed development.

Noted.

3.3 Scottish Water objects to the proposed development due to the cost of providing infrastructure to serve the development which is outwith Scottish Water's "reasonable cost" obligations in terms of the Sewerage (Scotland) Act 1968. Scottish Water advise they would remove it's objection if the applicant bears the cost of the increase in capacity of Scottish Waters existing infrastructure to accommodate the development and/or promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system which is satisfactory to Scottish Water.

The requirements of Scottish Water can be met by attaching suitably worded conditions and notes to any grant of Planning Consent.

3.4 The Scottish Environment Protection Agency (SEPA) advises that they have no objection to the proposed development and would seek written assurances from Scottish Water that all foul drainage from the site is connected to the public sewer and surface water drainage should be dealt with in accordance with the principles of SUDS. SEPA advise that compensatory flood storage should be utilised as the proposed development lies within the floodplain of the River Irvine. The proposed development should consider the use of flood resistant materials and ensure that there is adequate emergency access to/from the development during flood events.

The requirements of SEPA can be addressed by attaching suitably worded conditions and notes to any grant of planning consent, whilst the proposed development does indicate an emergency access point onto Queens Drive.

3.5 East Ayrshire Council's Environmental Health and Waste Management Division have no objections to the proposals but request that standard hours of construction conditions be attached to any grant of planning consent.

The requirements of Environmental Health can be addressed by means of suitably worded conditions and notes attached to any grant of Planning Consent.

3.6 East Ayrshire Council's Outdoor Amenities Service have no adverse comments to make in relation to the proposed development although the area highlighted for a sports pitch will need to be large enough to accommodate a full size rugby pitch with dead ball areas and sufficient surround areas.

Noted.

3.7 Piersland/Bentinck Community Council have not responded to their consultation at the time of writing this report.

Noted.

3.8 SportScotland have no objections to the proposed development subject to the area indicated on the plans to the east of the application site, adjacent the River Irvine, being levelled to provide a base for a sports pitch and that a long term lease of the land is agreed with a recognised sporting organisation prior to the buildings being occupied on-site.

The requirements of SportScotland can be addressed by means of an appropriately worded condition to ensure that any future reserved matters application for the proposed development provides a level surface to enable the preparation of a sports pitch prior to the occupation of any buildings on-site.

4. REPRESENTATIONS

4.1 There are 2 objections to the proposed development, including Scottish Water's objection which is addressed at section 3.2 above. A brief summary of the objection received by a third party is as follows:

4.2 They own the land adjacent to the proposed development and are currently in negotiation with East Ayrshire Council regarding flooding issues. They feel these issues should be clarified in relation to the whole of the as yet undeveloped land in the area before any planning permissions are granted.

Each planning application requires determination on its own merits and as such the Council's Roads (flooding) team have no objections to the proposed development. Scottish Planning Policy 7 (SPP 7), Planning and Flooding, as stated at 6.3 below, expects developers and planning authorities to address issues of flooding very seriously and to take an informed approach to preclude adverse impacts either on the site concerned or on neighbouring land. It is, however, not considered that the proposed development subject to the imposition of relevant conditions on any consent, would have an adverse impact, by way of flooding, on the adjacent undeveloped land in the objector's ownership.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 The proposed development does not raise any strategic issues in terms of the AJSP.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policies Kilmarnock 5; RTC1; RTC5; RTC15; TLR3 and ENV17 of the Adopted EALP are specifically relevant in the consideration of this application.

5.4 Policy Kilmarnock 5 states that the application site is designated within the Adopted East Ayrshire Local Plan as Site 163M, a Miscellaneous Development Opportunity Site, where the Council will encourage and support the development of leisure and recreation uses, for Class 4 industrial and business uses or for the sale and display of motor vehicles.

5.5 Policy RTC1 states that the Council will adopt a sequential approach in assessing development proposals for retail and other uses

appropriate to town centres as described in Schedule 5 of the Plan. Applicants proposing such developments in out-of-town centre locations are required to demonstrate that no suitable alternative site can be found or assembled within town centres and thereafter in an edge of centre location.

The application site constitutes an out of town centre location. The applicant has not demonstrated that no suitable alternative site can be found or assembled within the Kilmarnock town centre or in an edge of centre location. However it is considered that a public house/ restaurant/ travel lodge use as lesser part of a wider mixed-use scheme which includes class 4 offices would be acceptable in this location.

5.6 Policy RTC5 states that, in assessing all out-of-centre retail and other Schedule 5 development proposals, the Council will have regard to certain stated factors, such as whether the applicants have adopted a sequential approach and can demonstrate that no suitable alternative sites are available within or on the edge of town centres; whether the proposal would affect, either individually or cumulatively, the vitality and viability of town centres; whether the scale of the proposal is appropriate to its location; whether the proposal would be compatible with other local plan policy objectives and uses in the area and whether the proposed development would have any adverse effect on the environmental quality, character and amenity of the area.

The applicant has not demonstrated that a sequential approach has been adopted in the identification of the site for restaurant purposes and has not demonstrated that no suitable alternative sites are available within or on the edge of the town centre. However a public house/ restaurant/ travel lodge use as a lesser part of a wider comprehensive mixed-use development is considered acceptable in this location. It is not considered that the development of a restaurant on the site would affect the vitality and viability of Kilmarnock town centre.

5.7 Policy RTC15 states that the development of public houses and hot food takeaways will be considered acceptable uses within town centres and may be considered appropriate in other locations where the proposals:

- (i) meet with the Council's design and layout policies;
- (ii) meet with the requirements of the Council as Roads Authority;
- (iii) do not have a detrimental effect on the amenity of adjacent properties by reason of noise, litter, odour or any other disturbance; and
- (iv) are compatible with surrounding land uses.

It is considered that a public house would be complimentary in principal as part of this mixed-used development. The design of the proposals does not form part of this application as it is in

outline. Details would require to be submitted as part of any future reserved matters application. The Council's Roads and Transportation Division have no objections to the proposed development.

5.8 Policy TLR3 presumes in favour of tourist related development, with encouragement being given to the use of existing buildings in preference to the construction of new build facilities. Proposals will require to meet all of the following four criteria:

- (i) the proposed use and any associated structures is not visually or environmentally intrusive, is of a nature and scale compatible with surrounding land uses and is not detrimental to the character and amenity of the area within which it is proposed;

As the application is outline only, design considerations will be dealt with upon submission of a detailed application.

- (ii) there is no adverse impact on the natural environment and in particular on recognised natural or built heritage resources requiring conservation;

It is not considered that the proposed development would have an adverse impact on the natural environment and it does not impact on any recognised areas of natural or built heritage.

- (iii) the proposal can be fully justified in terms of infrastructure, provision of services, access and car parking provision; and

The Council's Roads Division have no objections to the proposed development.

- (iv) the proposal complies with the provisions of Policy TLR4 which directs all new tourist accommodation to existing settlements.

The proposal complies with this element of the policy as it is located within the settlement boundary of Kilmarnock.

5.9 Policy ENV17 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.

SEPA and the Council's Roads and Transportation (Flooding) Division have no objections to the proposed development.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received which are addressed in Section 3 of this report, the letter of objection addressed in Section 4 of this report, SPP7 "Planning and Flooding" and any relevant planning history to the site.

Consultation Responses and Representations Received

6.2 The consultations and representations received are addressed in Sections 3 and 4 of the report, none of which, it is considered, indicate that the application should be refused. The third party objection received, whilst noted, relates to the objector's discussions with the Council regarding flooding issues relative to their site. The Council's Roads and Transportation Division and SEPA have no objections to the proposed development subject to the imposition of appropriate conditions. With regard to Scottish Water's objection, the requirements of Scottish Water can be addressed by attaching suitably worded conditions and notes to any grant of planning consent.

SPP7 Planning and Flooding

6.3 SPP7 expects developers and planning authorities to address issues of flooding very seriously and to take an informed approach to preclude adverse impacts either on the site concerned or on neighbouring land. Flood risk is a material consideration and consequently the advice of SEPA and the Council's own expert officers has been fully noted in the consideration of the application, (see above).

Planning History

6.4 The relevant planning history of the site is as follows:

96/0141/OL- Proposed Car Showrooms, Cinema, Drive thru Restaurant, Bowling Green & Clubhouse , Light Industrial Units, Cricket Square & Improvements to Rugby Club Complex Access.

APPROVED WITH CONDITIONS 19/12/96

97/0554/FL- Proposed Mixed Leisure Development to Include Multiplex Cinema Night Venue/Family Entertainment Centre/Family Restaurants & Themed Restaurant & Associated Car Parking.

WITHDRAWN 19/12/97

00/0030/FL- Proposed Motor showroom facility, access and ground works in relation to formation of dry pond attenuation area.

APPROVED WITH CONDITIONS 20/04/00

00/0762/FL- Proposed Amendment to Site Layout, Site Boundary, Location & Elevations of Retail Motor Showroom & Car Parking Facilities, Movement of Infill Materials for Flood Management Provisions.

APPROVED WITH CONDITIONS 08/02/01

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are financial and legal implications for the Council in the determination of this application as the Council is a part owner of the application site.

8. CONCLUSIONS

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

8.2 As indicated in Section 6 of the report there are material considerations relevant to this application. The consultation responses received are detailed at Section 3 of the report, none of which indicate the proposed development should be refused. The comments of the third party objector, whilst noted, are not considered of sufficient weight to justify the refusal of the proposed development as their concerns relative to flooding are not echoed by the Councils Roads Division or SEPA. The comments of Scottish Water can be addressed by means of attaching appropriately worded conditions and notes on any grant of planning consent. The proposed development will provide a comprehensive mixed use development including offices and a restaurant/public house/ travel lodge on the last frontage site identified for development on Queens Drive. The site has been overgrown and undeveloped for many years and the granting of this outline consent should act as a catalyst for a future detailed planning application being received, with the re-development of the site following in due course.

9. RECOMMENDATION

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

Alan Neish
Head of Planning, Development and Building Standards

20 March 2007 (BD/SA)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form, Plans and accompanying submissions.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Objection
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.

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

Implementation Officer: Alan Neish

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Site Adjacent Queens Drive And River Irvine
KILMARNOCK

Nature of Proposal: Mixed use development including erection of
class 4 office units, pub/restaurant/travel lodge

Name & Address of Applicant: G & M Estate
23 Fordneuk Street
GLASGOW G40 2TA

Name & Address of Agent: Cooper Cromar
Newton House
457 Sauchiehall Street
GLASGOW G40 2TA

DPOs Reference: BD/SA

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

(1) Before any development commences on site, the further approval of the Planning Authority shall be obtained in respect of the under mentioned matters hereby reserved.

- (a) The layout of the site;
- (b) The size height and design of the proposed buildings;
- (c) The provision for car parking and the internal road layout of the site;
- (d) The boundary treatments;
- (e) The landscaping of the site and associated maintenance arrangements;
- (f) Existing and Finished site levels / floor levels; these to be such that no building has a finished floor level less than 24.67 metres ordnance datum.

REASON The approval is in outline only.

(2) Notwithstanding the plans hereby approved the foul drainage shall be connected to the public sewer and the applicant should consult with Scottish Water prior to the submission of a reserved matters application, in this regard.

REASON In the interest of public health and to prevent any pollution of watercourses.

(3) Notwithstanding the plans hereby approved access into the development site shall be taken from the adjacent (to the south) industrial road.

REASON In the interest of road safety.

(4) Notwithstanding the plans hereby approved, prior to the commencement of development 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 units.

REASON To ensure that adequate drainage is provided.

(5) Notwithstanding the submitted details the specific proposed floor space (indicated on the plans as being 32,000 sq ft of class 4 office use and on the application form as 56,000 sq ft) is not hereby approved, and the extent of such provision will be assessed upon consideration of any reserved matters application.

REASON In order to allow the Planning Authority to retain proper control of the proposed development.

(6) Notwithstanding the approved plans the proposed “restaurant” block is not hereby approved. Details to be submitted under condition 1 shall include details of a pub/restaurant/travel lodge proposal as part of the wider mixed use development.

REASON To ensure the proposed development accords with the retailing and town centre policies of the Adopted East Ayrshire Local Plan.

(7) Notwithstanding the approved plans a level base to be used as a sports pitch shall be formed where indicated on the approved plans prior to the occupation of any buildings on-site. In this regard the base shall be provided with drainage suitable for such sports use and shall be of sufficient size to accommodate a full size rugby pitch with dead ball and surround areas.

REASON In order to provide a prepared surface for a sports pitch to meet the requirements of SpotsScotland.

(8) Notwithstanding the approved plans, the foot print of buildings, the specific location of car parking and roadways within the site and the location and extent of landscaped areas as shown on “Block Plan as Proposed”, (AL(0) 03 Rev E) are not hereby approved. Further details of these features will require to be submitted for approval further to Condition 1 above.

REASON To allow the Planning Authority to retain control of the development which is granted in outline only.

(9) The permission hereby granted allows for the development of buildings, roadways, parking and supporting infrastructure, only within an area bounded to the west by Queens Drive, to the south by the existing car showroom, to the north by the River Irvine and to the east by the shaded “sacrificial” flood plain area. Outwith this defined location permission is granted only in respect of the formation of the “sacrificial” flood plain area and the base created to accommodate a future sports pitch.

REASON In order to secure the development from future flood events.

(10) The area indicated as being engineered to create a “sacrificial” flood plain shall be formed prior to the commencement of any other development hereby approved.

REASON To ensure that there is in place adequate compensatory flood storage capacity.

(11) Prior to the occupation of any buildings on site, there shall be provided an emergency vehicle access to Queens Drive. The location as indicated on the submitted “Block Plan as Proposed” is acceptable, however full engineering details of the access shall be submitted to and approved by the Planning Authority prior to commencement of development.

REASON In the interests of road safety.

(12) No external construction work, site clearance or preparation work shall take place before 08.00 a.m. or after 18.00 p.m. Monday to Saturday nor at any time on a Sunday.

REASON To maintain a reasonable level of amenity relative to adjacent uses.

NOTES:-

1. The applicant should make early contact with Scotland Gas Networks as the development may affect their apparatus in the area. Scotland Gas Networks can be contact on 0141 418 4093.
2. The applicant should make early contact with East Ayrshire Council Roads and Transportation Division prior to the commencement of development on site to ascertain if any permits for road/footway works are required. East Ayrshire Council Roads and Transportation Division can be contacted on 01563 576310.
3. The applicant should make early contact with Scottish Water on 0845 601 8855. 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.

4. The developer shall make early contact with Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
5. 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.
6. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

**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.**