

## **EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE: 13 DECEMBER 2005**

**05/0299/OL: PROPOSED RESIDENTIAL DEVELOPMENT WITH  
ASSOCIATED CAR PARKING AND LANDSCAPING  
AT FORMER BLACKWOOD BROTHERS FACTORY, WESTERN ROAD,  
KILMARNOCK  
BY JULGEM PROPERTIES LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Outline planning consent is sought for the change of use of this site from industrial purposes to residential. The site extends to approximately 3.61 hectares. A strip of land to the north west of the site is proposed to be retained for industrial use, and this industrial section would be accessed from the existing access on Southhook Road. Access for the housing development would be off Western Road. The substation on site is to be retained. A landscaping buffer is proposed along the south west of the site, on Southhook Road, and on the north west, to separate the proposed housing from the proposed industrial use. It is also proposed to include a pedestrian link to the countryside footpath running along the north east boundary of the site.

The application form states that details of siting, design, external appearance and landscaping are to be reserved.

#### **2. RECOMMENDATION**

**2.1 It is recommended that this application for outline planning permission be approved subject to the conditions listed on the attached sheet but that permission not be issued until the Solicitor to the Council has concluded a formal Agreement with the applicants under Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of the points raised in paragraph 7.1 of the report.**

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, this application is contrary to the Local Plan. It should therefore be refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application. There has been extensive marketing without success and it is considered that this site would not be viable for business / industrial use without considerable grant assistance. This may not be viewed as sustainable given the relatively recent funding of the Moorfield Industrial Park. Additionally, there is concern about the viability of the renovation of the Southhook Potteries building without financial assistance from this development.

3.3 In this instance, material considerations are considered to outweigh the Development Plan, and it is considered that this application should be approved.

**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 application for outline planning consent, to be considered by the Development Services Committee under the scheme of delegation as it is recommended for approval and constitutes a significant departure from Local Plan policy.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located to the immediate north of Western Road in Kilmarnock. There is housing to the south, and industrial uses to the north and west. To the south west is the B Listed Southhook Potteries Building, which is the subject of a full planning application and a Listed Building application for residential development. The former Blackwood Brothers factory is on the application site, together with associated outbuildings of brick construction and with extensions constructed with profiled metal sheeting. The grounds are hardstanding, or overgrown grassed areas. There is fencing all round the site.

2.2 **Proposed Development:** Outline planning consent is sought for the change of use of this site from industrial purposes to residential. The site extends to approximately 3.61 hectares. A strip of land to the north west of the site is proposed to be retained for industrial use, and this industrial section would be accessed from the existing access on Southhook Road. Access for the housing development would be off Western Road. The substation on site is to be retained. A landscaping buffer is proposed along the south west of the site, on Southhook Road, and on the north west, to separate the proposed housing from the proposed industrial use. It is also proposed to include a pedestrian link to the countryside footpath running along the north east boundary of the site.

The application form states that details of siting, design, external appearance and landscaping are to be reserved.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health Division advise the following:

- ? The proposed development site has links to historic industrial activities which may have had the potential for soil and groundwater contamination.
- ? Coal Authority data shows the location of two mineshafts in the south east corner of the site.
- ? The site was previously the location of the Bonnyton Fireclay Works, associated railway sidings and slag heaps.
- ? More recently, the site has been occupied by Blackwood Brothers spinning mill and dyehouse, during which period there have been intermittent complaints concerning foul odours from drainage associated with the wastewater effluent treatment at the plant.
- ? In 1995 the Environmental Health Division was notified that foul smelling drainage leaked from the site to the adjacent railway embankment. Testing of this effluent identified the presence of chemicals used in the mothproofing of carpet yarn.

As a consequence, a comprehensive site investigation would require to be undertaken to assess the risk of harm to key receptors from exposure to contaminants (if any) in or under the ground.

They state further that since the site is bound by a waste transfer station to the north west and industrial units to the south, the site may be better utilised for commercial use rather than residential development.

Should this development proceed, it will involve considerable demolition and site clearance/preparation works, with this including tanks and boiler plant to be removed and services to be sealed or removed. All such works must be undertaken in accordance with appropriate legislative requirements and guidelines to avoid nuisance and to ensure that all waste from the site is handled and disposed of satisfactorily (e.g. it is possible that the factory/boilerhouse could contain asbestos materials).

***A condition may be attached, should consent be granted, requiring a site investigation report to be submitted, detailing any contamination***

***on site, and measures to treat/remove such contamination. With regard to the use of the site, the application has been assessed against Local Plan policy, other consultation responses and other material considerations. Residential development is considered appropriate, subject to conditions including with regard to contamination, as referred to above. An advisory note may be attached to remind the applicant of the need to comply with the relevant legislative requirements.***

3.2 East Ayrshire Council's Roads and Transportation Division requested a Transport Assessment due to the scale of the proposal. They advised that the location of the new junction onto Western Road is acceptable, but the sightline standards must be  $x = 4.5$  metres and  $y = 90$  metres. They also stated the developer should provide an indication of the proposed SUDS for the development.

***A Transport Assessment has been submitted to the Roads Division. Its findings revealed that southbound queuing on Western Road occurs during peak hours, and traffic leaving the site and turning right onto Western Road would therefore be inhibited. It is considered that this issue would best be mitigated by extending the existing layby on Western Road to improve southbound queuing capacity at the Munro Avenue / Bonnyton Road junction. The developer has offered to pay a contribution to extend the layby further, and this may be ensured by way of a Legal Agreement, should consent be granted. The effect of this would be to reduce the length of queuing traffic on the single lane section of Western Road past the site access. Revised plans indicate the sightline required. A condition may be attached to any grant of planning consent, requiring details of a SUDS scheme.***

3.3 East Ayrshire Council's Business Development Division does not object to this proposal. They note that the premises have been vacant for several years and that marketing of the site, demonstrated by the applicant, has proven to be unsuccessful. They state that the design and construction type of the property is now obsolete for modern industrial purposes and the costs involved for conversion would not be justifiable, given the returns which would be available on an investment basis. Physical works for the development of the Moorfield Industrial Park are about to commence, and this will enable companies to provide industrial / business accommodation specific to their needs. Cognisance must be taken of the realities of the "market", which clearly indicate there is no demand for this property either in its existing form or following any likely conversion works to form alternative sizes and configurations of industrial / business accommodation. It is not unreasonable to assume that any development of industrial / business accommodation at this site would require considerable grant funding to achieve commercial viability. Any application for support would have

to demonstrate that there is a sustainable market for the final development and based on the information submitted and recent funding of Moorfield, it is likely that this would be a difficult case to make.

***Noted.***

3.4 Scottish Power does not object to this development provided the substation is not being demolished.

***The plans indicate that the substation will be retained.***

3.5 Transco does not object to this application.

***Noted.***

3.6 Scottish Water does not object to this application, but states that surface water must not be connected to the combined sewer, but must be discharged to the surface water sewer, or watercourse via a suitable SUDS system. They also state that a separate application must be made to Scottish Water for permission to connect to the public wastewater system and / or water network nearer the time.

***A condition may be attached to any grant of consent requiring surface water to be discharged via a SUDS system. An advisory note may be attached in relation to the need for a separate application to connect to the water network / wastewater system.***

3.7 Scottish Environment Protection Agency does not object to the proposal provided foul drainage from the site is connected to the public sewer. They require a condition to be attached to any consent to ensure surface water is treated in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. All waste materials should be disposed of at a suitably licensed facility in accordance with the Waste Management Licensing Regulations 1995 and the Special Waste Regulations 1996. They advise it is possible that previous uses of the site may have resulted in contamination of the site, and SEPA would expect that a risk assessment will be requested to consider whether or not contaminants are entering or are likely to enter controlled waters and at what concentration.

***Noted. The application form states that the proposed drainage arrangements are by public sewer. The issues of SUDS for surface water may be ensured by attaching a condition, should consent be granted. It is the responsibility of the applicant to dispose of waste satisfactorily, and this is dealt with in legislation outwith the planning system. A condition may be attached regarding potential contamination and a risk assessment, should consent be granted.***

3.8 Bonnyton Community Council has submitted a representation which at this time does not amount to a valid objection in that it does not contain any comment on the merit of the application. The Community Council reserves the right to comment on a detailed application when available.

***The Community Council will be consulted on any subsequent proposals at this site, and will then have the opportunity to comment on detailed proposals.***

#### 4. REPRESENTATIONS

4.1 No third party letters of objection have been received in relation to this proposal.

#### 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).

##### Ayrshire Joint Structure Plan

5.2 There are no relevant policies in the Ayrshire Joint Structure Plan.

##### East Ayrshire Local Plan

5.3 Policy IND 5 safeguards those established industrial areas as shown on the Local Plan Maps for business, industrial and storage and distribution uses.

***Given that the proposed housing development is located within a safeguarded industrial area, it is, strictly speaking, contrary to policy IND 5. However, extensive marketing of the site has taken place over the past few years with no success. It would appear that there is little or no demand for this type of industrial building at present. The applicant has agreed to leave a strip of land to the rear of the site of a sufficient size to accommodate the industrial/business development of small units. There is also an issue relating to whether proposed flats at the adjacent listed Southhook Potteries building would be marketable if the vacant factory were to remain on site. For these reasons an exception to policy IND 5 is considered appropriate in this case.***

***Given that this safeguarded industrial site has lain vacant for a number of years without securing a new owner/tenant, it is considered that an exception to policy can be made in this case.***

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

6.1 The principal material considerations relevant to the determination of these applications are the consultation responses received which are addressed in Section 3 of the report, the planning history of the site and the impact upon the amenity of the area.

### Consultation Responses

6.2 The consultation responses are detailed in the report and do not raise any issues to warrant refusal of this application. The Community Council has the right to submit planning observations on any detailed application but has not objected in planning terms to the current proposal which is in outline only.

### Planning History

6.3 The previous applications pertaining to this site are listed below:

- ? W/AD/76/31A – Proposed increased office and toilet facility in existing warehouse – approved with conditions on 12 February 1979.
- ? KL/W/78/93A – Proposed extension to industrial building as a loading bay – approved 05 March 1981.
- ? KL/W/85/219 – Partial demolition of, and alterations to yarn store, extension to rewinding area of factory – approved 14 October 1985.
- ? KL/W/85/219A – Proposed extension to existing dye house – approved 25 April 1991.
- ? KL/W/85/219B – Proposed yarn storage unit – approved with conditions – 6 April 1992.
- ? KL/W/85/219C – Proposed extension to existing offices – approved with conditions – 17 January 1994.
- ? KL/W/85/219D – Proposed new yarn storage facility to serve existing despatch area – approved with conditions 21 August 1995.

- ? KL/W/85/219E – Proposed rebuilding of damaged area of factory wall and formation of 3 new pass doors – approved with conditions 09 November 1995.

6.6 It is not considered that any of these applications impinge on the application subject of this report. As such they present no issues which would affect the recommendation for the application currently being considered.

#### Impact on Amenity

6.7 Given the mix of uses surrounding the site, which includes existing residential development, it is considered that residential development at this site would have a minimal impact upon amenity. In terms of visual amenity, this will be assessed more fully at reserved matters / full planning stage, however it is considered that a housing development with screening is likely to represent an improvement overall. A Transport Assessment has been submitted and focuses on the southbound traffic on Western Road during peak hour. The applicant has offered to make a contribution towards extending the layby on Munro Avenue, to improve queuing capacity of the junction of Munro Avenue / Bonnyton Road.

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

7.1 There are financial and legal implications for the Council, should this application be approved, due to a proposed Legal Agreement and developers contribution as follows. A Legal Agreement is sought to ensure the receipt of a developer contribution to facilitate the formation of a layby extension on Western Road and furthermore, the applicants have advised that the renovation of the adjacent Southhook Potteries building (ref: 05/0302/FL and 05/0256/LB) would not be viable without a financial contribution from this application. The Legal Agreement should also therefore be used to ensure the Listed Building renovation commences prior to new housing being built.

### **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report, this application is contrary to the Local Plan. It should therefore be refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application. There has been extensive marketing without success and it is considered that this site would not be viable for business / industrial use without considerable grant assistance. This may not be viewed as sustainable given the relatively recent funding of the Moorfield Industrial Park. Additionally, there is

concern about the viability of the renovation of the Southhook Potteries building without financial assistance from this development.

8.3 In this instance, material considerations are considered to outweigh the Development Plan, and it is considered that this application should be approved.

## **9. RECOMMENDATION**

**9.1 It is recommended that this application for outline planning permission be approved subject to the conditions listed on the attached sheet but that permission not be issued until the Solicitor to the Council has concluded a formal Agreement with the applicants under Section 75 of the Town and Country Planning (Scotland) Act 1997 in respect of the points raised in paragraph 7.1 of the report.**

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

06 December 2005  
(CP/RH)

### **LIST OF BACKGROUND PAPERS**

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letter of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Application Nos: W/AD/76/31A , KL/W/78/93A , KL/W/85/219ABCDE.

Anyone wishing to inspect the above papers please contact Claire Peters, Planning Officer, on 01563 576779.

***Implementation Officer: Alan Neish***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0299/OL

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Site of Proposal:	Former Blackwood Brothers Factory Western Road KILMARNOCK KA1 2NN
Nature of Proposal:	Proposed Residential Development with Associated Car Parking and Landscaping
Name & Address of Applicant:	Julgem Properties Ltd 5-9 St Marnock Place KILMARNOCK KA1 1DU
Name & Address of Agent:	Alan Montgomery HG Planning 20 Lynedoch Crescent GLASGOW G3 6EQ

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DPOs Reference: CP/RH

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.
  - b) The layout of the site;
  - c) The size, height, design and external appearance of the proposed dwellinghouses;
  - d) The means of drainage and sewage disposal;
  - e) The provision for open space and associated maintenance arrangements;
  - f) The provision for car parking;
  - g) The boundary walls / fences to be erected;

- h) The landscaping of the site and associated maintenance arrangements;
- i) Existing and finished site levels / floor levels.

REASON: The approval is in outline only.

2. No external construction works shall take place on site before 08:00 hours or after 18:00 hours Mondays to Fridays and before 08:00 hours and after 13:00 hours on Saturdays and not at any time on Sundays.

REASON: To minimise noise disturbance, in the interest of residential amenity.

3. Details of a Sustainable Urban Drainage System (SUDS) to treat surface water shall be submitted to and approved in writing by the Planning Authority, prior to development commencing on site, and thereafter implemented as approved.

REASON: In the interest of public safety

4. No development shall begin on site with the exception of site investigative works until a scheme to deal with any 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 the proposals to deal with contamination to include:

- 1) The nature, extent and type(s) of contamination on site;
- 2) A site specific risk assessment of all relevant pollutant linkages, including any contaminant entering or likely to enter controlled waters;
- 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.

REASON: In the interest of public safety.

Notes to Applicant:

1. Coal Authority data shows the location of two mineshafts in the south east corner of the site.

2. All demolition works and site clearance / preparation works must be undertaken in accordance with appropriate legislative requirements and guidelines.

**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.**