

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 12 APRIL 2005

**04/1150/OL: PROPOSED 3 TO 4 STOREY OFFICE DEVELOPMENT,
PUBLIC SQUARE, ENVIRONMENTAL IMPROVEMENTS AND CAR PARK IN
HIGH STREET WITH ASSOCIATED ALTERATIONS, IMPROVEMENTS TO
MULTI-STOREY CAR PARK
AT FOREGATE NORTH CAR PARK, GREEN STREET, MULTI-STOREY CAR
PARK, LANDSCAPED AREA, HIGH STREET, KILMARNOCK
BY SCOTTISH ENTERPRISE AYRSHIRE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning consent is sought for an office development and car park. Improvements are also proposed to the adjacent existing multi-storey car park. The applicant has lodged indicative details that illustrate the following components:-

Car Park

The proposed car park details indicate 97 car parking spaces plus 5 disabled spaces to be accessed and egressed in a one-way circulatory system from High Street.

Office Building

A net office floorspace of 3835m² (41,280 sq ft) is proposed, with a gross building area of 5360m².

Indicative details propose a rectangular building with two parallel wings orientated east-west separated by a glazed atrium. The main office entrance is from the west addressing the public square. Linking these ends is a colonnade 12 metres in height and delineated by a row of structural steel columns providing a civic presence to the public space. Each office wing is designed to be self-contained each with its own service area to provide for multiple tenancy. The offices would be 3 storey to the north wing equating to the scale of the viaduct and a 4 storey south wing increasing the building height to the adjacent multi-storey car park. It is further proposed to incorporate a 'green' roof to the north wing to facilitate recreational use by office staff. The building is to be finished in render walls with an integral bright colour pigment and composite colour-coated

aluminium frame windows. The roof will comprise a 'green' roof at the 3 storey wing and a upvc dark grey membrane to the south.

Civic Square

The civic square will comprise new hard landscaping and traffic calming with high quality materials as used in the town centre. Whilst the existing roads configuration will remain, there will be a new pedestrian route formed to provide direct access to the bus station. The external materials of the new square will also be extended to the Foregate Square access road and taxi route. Materials will comprise Caithness stone and silver-grey granite setts and Corennie Pink granite trims, channels and kerbs. Street furniture will comprise solid granite bollards, seats and tree planting will comprise semi-mature species set in cast iron tree grilles with metal tree guards.

Transportation Assessment

The applicant has submitted a Transportation Assessment with the application, which has assessed the impact of the proposed development on the existing road network and the likely increased demand on off-street car parking spaces. It also encourages sustainable modes of transport which will facilitate a reduction in car use and support walking, cycling and public transport. The application site is within easy walking distance of Kilmarnock train and bus station. The accessibility to and from the site is considered excellent in terms of pedestrian, cycle and public transport.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheet and that the issuing of the planning decision notice be withheld until the application has been referred to and cleared by the Scottish Ministers under the Town and Country Planning (Notification of Applications)(Scotland) Direction 1997.

3. CONCLUSIONS

3.1 As indicated at Section 5 of the report, the application is contrary to 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 refused unless material considerations indicate otherwise.

3.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The concerns of the objectors are noted, however they are not considered to be of sufficient weight to justify a recommendation of

refusal. Their concerns regarding the loss of car parking have not been supported by the Roads Division, as they are satisfied that the additional car parking proposed at High Street and appropriate measures to the multi-storey to encourage and enhance its attractiveness for potential users compensate for the loss of the Foregate North car park.

3.3 Although the proposed development is essentially contrary to the local plan, it is considered that the positive economic benefits that a prestigious office development of the type proposed allows an exception to policy in this instance and adds further weight to the material considerations. The proposed office development would have a positive effect on the economy of the town centre helping to support town centre, shops, bars and leisure facilities and thereby positively contributing to the vitality and viability of the town centre by bringing new life and activity into this area.

3.4 The indicative plans showing a modern contemporary design for the office development. This site is very prominent in terms of the Kilmarnock townscape and the development will provide an important enduring addition to the Kilmarnock built environment. The design and siting of the development should take cognisance of the adjacent listed viaduct and listed buildings in close proximity and this will be addressed at the reserved matters stage. However it is important at this stage, that the applicant is given general advice of what would be acceptable at the detailed stage.

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.

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 12 APRIL 2005

**04/1150/OL: PROPOSED 3 TO 4 STOREY OFFICE DEVELOPMENT,
PUBLIC SQUARE, ENVIRONMENTAL IMPROVEMENTS AND CAR PARK IN
HIGH STREET WITH ASSOCIATED ALTERATIONS, IMPROVEMENTS TO
MULTI-STOREY CAR PARK
AT FOREGATE NORTH CAR PARK, GREEN STREET, MULTI-STOREY CAR
PARK, LANDSCAPED AREA, HIGH STREET, KILMARNOCK
BY SCOTTISH ENTERPRISE AYRSHIRE**

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 located on land where the Council has an ownership interest, is contrary to Adopted East Ayrshire Local Plan and is subject to objection and requires to be notified to the Scottish Ministers.

2. APPLICATION DETAILS

2.1 **Site Description:** The application sites comprises two areas. The first site relates to the Foregate North and South pay and display surface car parks and multi storey car park within the town centre of Kilmarnock. The second site is a landscaped area of open space comprising grass and trees at High Street. The site at Foregate is bound by Green Street and the B listed viaduct to the north and the bus station and Foregate Square Burns Mall to the south. To the east lies Green Street on the one-way traffic system and to the west is the Clydesdale Bank building and the Foregate. The application site at High Street is bound by landscaped open space, the Kay Park and the Kilmarnock Water to the north, east and south. To the west is High Street beyond which are residential properties.

2.2 **Proposed Development:** Outline planning consent is sought for an office development and car park. Improvements are also proposed to the adjacent existing multi-storey car park. The applicant has lodged indicative details that illustrate the following components:-

Car Park

The proposed car park details indicate 97 car parking spaces plus 5 disabled spaces to be accessed and egressed in a one-way circulatory system from High Street.

Office Building

A net office floorspace of 3835m² (41,280 sq ft) is proposed, with a gross building area of 5360m².

Indicative details propose a rectangular building with two parallel wings orientated east-west separated by a glazed atrium. The main office entrance is from the west addressing the public square. Linking these ends is a colonnade 12 metres in height and delineated by a row of structural steel columns providing a civic presence to the public space. Each office wing is designed to be self-contained each with its own service area to provide for multiple tenancy. The offices would be 3 storey to the north wing equating to the scale of the viaduct and a 4 storey south wing increasing the building height to the adjacent multi-storey car park. It is further proposed to incorporate a 'green' roof to the north wing to facilitate recreational use by office staff. The building is to be finished in render walls with an integral bright colour pigment and composite colour-coated aluminium frame windows. The roof will comprise a 'green' roof at the 3 storey wing and a upvc dark grey membrane to the south.

Civic Square

The Civic Square will comprise new hard landscaping and traffic calming with high quality materials as used in the town centre. Whilst the existing roads configuration will remain, there will be a new pedestrian route formed to provide direct access to the bus station. The external materials of the new square will also be extended to the Foregate Square access road and taxi route. Materials will comprise Caithness stone and silver-grey granite setts and Corennie Pink granite trims, channels and kerbs. Street furniture will comprise solid granite bollards, seats and tree planting will comprise semi-mature species set in cast iron tree grilles with metal tree guards.

Transportation Assessment

The applicant has submitted a Transportation Assessment with the application, which has assessed the impact of the proposed development on the existing road network and the likely increased demand on off-street car parking spaces. It also encourages sustainable modes of transport which will facilitate a reduction in car use and support walking, cycling and public transport. The application site is within easy walking distance of Kilmarnock train and bus station. The

accessibility to and from the site is considered excellent in terms of pedestrian, cycle and public transport.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health have made the following comments:-

- A Suitable storage and access provision should be planned for the storage and uplift of waste/re-cyclates.
- B Cognisance should be taken of the proximity of the nearby railway viaduct and town centre ring road system to minimise noise/vibration within offices.
- C It is recommended that conditions being imposed requiring a comprehensive investigation and subsequent confirmation of the implementation of remedial works due to historical commercial/industrial uses of the area for the office development at Green Street.
- D An area of ground in High Street where it is proposed to site the car park was formerly occupied by old tenement housing and mills. The car park use however represents a relatively low risk end use and the developer should address any unforeseen ground issues that might arise during site excavations and preparation works as there is not the same degree of concern here as for the main development at Green Street.

The requirements of Environmental Health can be addressed by attaching appropriate worded conditions to any grant of planning consent.

3.2 The Scottish Environment Protection Agency (SEPA) have no objections on the understanding that the foul drainage is connected to the public sewer and that permission is conditioned on all surface water being treated in accordance with the principles of Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland published by CIRIA in 2000. The applicant should be made aware of SEPA's Pollution and Prevention Guideline 6 and advise it is possible that previous uses may have resulted in land contamination.

The requirements of SEPA with regard to SUDS and contamination matters can be addressed by attaching conditions and advisory notes to any grant of planning consent.

3.3 West of Scotland Archaeology Service advise that the development as proposed will affect parts of the town where the date of first occupation is not

known and any surviving archaeological remains may provide new information on the physical form and rate of growth of the early settlement. Previous developments in the town have raised archaeological issues and have revealed the intermittent presence of truncated archaeological remains from the medieval and post-medieval periods over extensive areas. It may be that some archaeological remains of significance survive between the two sites. National Planning Policy Guidance 5 and PAN 42 stresses that developers must address archaeological issues and it is recommended that a condition be attached to any consent where significant remains within the site could be 'preserved by record' through archaeological excavation. The use of a condition at this stage would ensure the appropriate methodology is in place to address archaeological issues prior to work commencing at reserved matters stage.

The requirements of West of Scotland Archaeology Service can be addressed by attaching a condition to any grant of planning consent.

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

Noted.

3.5 Glasgow Prestwick International Airport, East Ayrshire Council's Legal Services, Transco, Scottish Power and The Coal Authority have no adverse comments to make regarding the proposed development.

Noted.

3.6 East Ayrshire Council's Economic Development Division support the proposals and advise that the development will increase the viability of the town centre and will bring new jobs to the area which will be welcome in the local economy.

Noted.

3.7 Network Rail have no objections in principle although have provided basic requirements that they require the developer to follow in order to maintain their statutory obligation on ensuring the availability of safe train paths.

Noted. It is recommended that if consent is granted, an advisory note be attached to the consent requiring early contact with Network Rail.

3.8 Scottish Water have no objections but require early contact to discuss connection to the public water and sewerage systems. They also require the use of a SUDS system. There is a strategic water main within the development

site which will be require to be diverted at the developer's expense. A totally separate drainage system of foul and surface water sewers will be required.

The above requirements of Scottish Water can be addressed by attaching a condition and advisory notes with regard to a SUDS system and early contact with Scottish Water regarding connection to the water and sewerage systems and diversion of the water main.

3.9 East Ayrshire Council's Roads and Transportation Division have commented on both their flooding and traffic responsibilities.

Flooding

The application site lies within an area where 40% of the site is at risk from flooding from Kilmarnock Water. As outlined in SPP7 "Planning and Flooding", because the site is at medium to high risk of flooding "these areas may be suitable for residential, commercial and industrial development provided flood prevention measures to the appropriate standard already exist, are under construction, or are planned as part of a long term development strategy in a Structure Plan context."

The applicant will be required to submit a Flood Risk Assessment and will also need to address the disposal of surface water both in respect of the office building and car park as it is unlikely that SEPA will consent to direct discharge into the Kilmarnock Water without some sort of SUDS treatment.

Discussion with the Roads Division have ascertained that the Flood Risk Assessment and proposals to treat surface water could be addressed at the detailed stage and conditions can be attached to any grant of planning consent requiring the submission of a Flood Risk Assessment and the provision of a SUDS system.

Transport Assessment

The following comments have been made on the Transport Assessment and other traffic and car park documents submitted

- It is accepted that a new car park constructed in High Street to accommodate long stay park is acceptable and will offset the loss of long-stay car park after the development of the Foregate North Car Park. This car park will comprise 102 spaces inclusive of 8 designated disabled spaces. Firm proposals for well lit, secure pedestrian linkages between the proposed car park site and the town centre should be provided along with controlled crossing points and CCTV coverage if necessary.

- The proposed car park at High Street is too far from the central area to be regarded as replacement short stay parking for the spaces lost in the Foregate North car park. Convenient short stay parking should be provided in the multi-storey car park to offset the loss. To encourage the use of the multi-storey car park, the development must incorporate measures to enhance the attractiveness of the multi-storey car park and restore it to full capacity.
- The development should provide a system of variable message signs on the approaches to the town centre to display the availability of spaces in each car park as town centre car parks would operate at their practical capacity for long periods of the day. These signs would improve the attractiveness of the town centre, help motorists find parking spaces and to minimise unnecessary traffic circulation while drivers look for a car parking space.
- Appropriate measures should be incorporated in the development to strengthen the pedestrian linkages from the proposed office development to the pedestrianised central area and bus station
- The development is unlikely to have an adverse effect on the operation of the Dean Street/Dean Lane/Wellington Street/Witch Road junction on the basis of additional information submitted
- The footprint of the new office development on one of the submitted plans encroaches onto the visibility splay for traffic on Green Street heading towards the new signalised junction with High Street
- Indicative layouts do not show how service vehicles will gain access to the development, consideration should be given to off-road access for refuse collection, service delivers and emergency vehicles
- A Green Travel Plan will be required to promote the use of sustainable modes of transport

The requirements of the Roads Division with regard to variable message signs, improvements to the multi-storey car park, pedestrian linkages from the office development to the pedestrianised central area and High Street car park, and the submission of a Green Travel Plan can be addressed by attaching appropriately worded conditions to any grant of outline planning consent. The exact footprint of the building, and details indicating service access for refuse collection, emergency vehicles and services providers will be addressed at the reserved matters stage.

3.10 The Scottish Civic Trust are now satisfied with the proposals and are pleased that the form and siting of the building will create a new public square and that the pedestrian routes are to be enhanced. Cognisance has been taken

of the listed railway viaduct and that attempts have been made to reducing the plant on the roof via introducing a natural ventilation flow which is sustainable. They are satisfied with the materials in general; however they hope that the high specification of materials used for the external spaces could be made for the vertical surfaces of the building itself. If a natural stone cannot be used, they would recommend that the colour chosen be in keeping with the setting of the viaduct and the wider setting of Kilmarnock.

It is noted that the Scottish Civic Trust are now satisfied with these recent proposals. Their advice with regard to proposed materials is noted and will be the subject of the detailed application. It is recommended that a condition is attached to any grant of planning consent giving the applicant advice on what would be suitable in terms of design, height and materials in terms of the detailed proposals.

3.11 Historic Scotland accept in principle the proposal to build an office development together with public square and other improvements. They advise that consideration should be given to the impact on this road from principal landmarks in the vicinity. These include the viaduct, West High Kirk and Palace Theatre. Whilst it is appreciated that the current proposal is in outline, the materials and finishes are important and it is noted that materials for the new build are perhaps too different in texture and colour for this part of Kilmarnock. Large expanses of smooth brightly coloured render would serve to distract the eye from existing landmarks. The existing palette comprises reds and browns coming mainly from the sandstone of many traditional buildings and also the 1970's brick and concrete Foregate development which is in itself a well designed structure with interesting articulated facades. Whilst the new development will bring improvements to the public realm, further consideration is recommended to the colours, materials and finishes of the new building.

The details submitted are indicative as this application is in outline. If planning permission is granted, such issues would be considered at the reserved matters stage although it is acknowledged that this is an important site, strategically located and it is therefore vital that the eventual design is of excellent quality, particularly given the impact on nearby listed buildings. A modern design solution is supported as any proposals that are more traditional in keeping with the viaduct, and Church could result in a pastiche attempt that would be inferior. The final quality of the development will be based upon the quality of materials and attention to detail which will enhance and complement the surrounding buildings and townscape. It is recommended that any planning consent could include a condition requiring materials that reflect and take account of the surrounding properties set within a modern context. The proposal should provide an architectural solution that reflects early 21st

Century and will seek to provide a development that is ultimately in keeping with the objectives of recent publications by the Scottish Executive in Developing a Policy on Architecture for Scotland thereby adding contrast and character to the surrounding area.

3.12 East Ayrshire Council's Outdoor Amenities object to the loss of green space within the town at a time when the Government is also recommending that quality green space is retained within towns and cities. Outdoor Services would remove the objection providing an adequate quality landscaping scheme is provided around the proposed car parking area.

The proposal will result in the loss of small areas of open space, however the larger area of open space and the Kay Park will be retained. The car park will be extensively landscaped along the perimeter and within the car park area so it is compatible with the surrounding landscaped and open space areas which will address the concerns of Outdoor Amenities. This will be addressed by attaching a condition to any grant of outline planning consent and will be submitted for approval at the reserved matters stage.

4. REPRESENTATIONS

4.1 There are 9 objectors to the proposed development and a petition signed by 24 people. The points raised are as follows:-

4.2 The application have been incorrectly described as it is an outline application to establish whether a change of use of a public car park to office development. Also a change of use from public open space to a car park on the north part of the Town Green adjacent to the Kilmarnock Water.

It is considered that the application description correctly describes the proposed development.

4.3 The proposals are contrary to Adopted East Ayrshire Local Plan and would expect the application to be advertised as a significant development plan departure.

The proposed development is assessed against the policies of East Ayrshire Local Plan in Section 5 of the report. The application has been advertised in the local press as a potential departure from the development plan.

4.4 The Council owned land at Green Street is currently well used as a public car park was not identified as a Development Opportunity in East Ayrshire Local Plan and was not presented for public discussion through Public Inquiry process.

It should be considered as a major modification to East Ayrshire Local Plan and dealt with according to local plan process.

The proposed development has been fully assessed against the policies of East Ayrshire Local Plan in Section 5 of the report. The application site does not require to be identified as a development opportunity site to allow it to be an acceptable use nor would it generate a modification to the local plan.

4.5 Green Street public car park has a beneficial use and is vital to retaining the vitality and viability of Kilmarnock town centre. It is very well suggesting that the adjacent multi storey car park is underused and yet more revamping will encourage shoppers and others to use it. It has been 'made over' before with little increase in use.

The Roads Division have accepted the loss of the Foregate North car park for short stay parking provided the adjacent multi storey car park is upgraded to encourage greater use for short stay parking. It is considered that the positive benefits that the office development will bring to the town centre outweighs the loss of this surface car park.

4.6 Policy IND1 of East Ayrshire Local Plan identifies key strategic industrial and business sites that will be restricted to key access points on the public/private transport network in accordance with the business/industrial development strategy. The prospect of attracting a decentralised government department appears to have faded then if the Council are considering using all/part of the proposed offices, the occupancy could be much higher at certain times which would attract more visitors and traffic.

The proposed office development has been assessed against Policy IND1 of East Ayrshire Local Plan in Section 5.8 of the report. The end user of the development has not been identified at this stage.

4.7 Policy IND 6 states that any new business development on land not identified for such a use requires to be justified against all 8 criteria. The proposed development cannot be justified against all 8 criteria as no case has been made for local need and there is no assessment of the impact of removing the best used surface car park in Kilmarnock Town Centre and replacing it with a use which itself will put additional pressure on car parking needs.

The proposed office development has been fully assessed against Policy IND 6 of East Ayrshire Local Plan in Section 5.8 of the report. It is considered that the proposed development can be justified against the criteria as there is a locational need for a prestigious office development of the type proposed to be located with

Kilmarnock town centre which compensates for the loss of a car park.

4.8 In terms of criteria (D) of Policy IND 6 there can be no proper assessment of environmental impact until relative heights and finished ground levels are known in relation to surrounding listed buildings/structures. Any 3-4 storey office blocks will challenge the setting and reduce the contribution of surrounding Listed Buildings-Railway Viaduct, Mason Murphy, West High Church.

It is considered that the development is acceptable at this location in principle. Details regarding height, design and materials of the development and its relationship to the setting of viaduct, the skyline and adjacent listed buildings will be determined at the detailed stage. It should be noted that both Historic Scotland and the Scottish Civic Trust have indicated their support for this development at the outline stage.

4.9 The blocking of much of the best view of the span of the viaduct will be particularly detrimental in its effect on this townscape.

This will be addressed at the reserved matters stage. However, it is considered that the development can be designed and sited so it does not compromise the setting and views of the viaduct.

4.10 The use of a modern design solution is alien to Kilmarnock in shape, form and location.

A modern design solution is supported by this Division and the amenity bodies as it is considered that any proposals in keeping with the viaduct and adjacent listed buildings could result in a pastiche attempt that would be inferior to the final quality of the development.

4.11 The removal of a well used car park will deter shoppers from even trying to access Kilmarnock's struggling Town Centre. It will have an adverse impact on retail turnover. This loss will be greater than any increase in sales from new office workers to the area Central parking facilities are essential to an increase in shopping and therefore to retail jobs and their spin-offs for a healthy town centre.

The loss of the Foregate North car park will be compensated by improvements to the multi-storey car park to encourage greater use by shoppers. It is considered that the loss of the car park is more than compensated by the economic benefits such a development will bring to the town centre and the Kilmarnock area.

4.12 If 102 shoppers parking spaces at street level are to be displaced to a site some 350 metres away across a busy road a parallel can be inferred from under-

capacity usage of the existing car park north of the viaduct. A pedestrian link was proposed from it to Foregate area, only to be filled in later.

The car park proposed at High Street is to provide for long-stay parking for office workers. However one of the main aims of the development is to encourage greater use of sustainable travel especially given its location adjacent to the bus and railway stations.

4.13 Development of a new car park on a site on the riverbank covered partly with trees and a footpath system linking through a site which drops some 5 metres over the site identified is unsuitable both physically and visually. They hope that there is a burden on the title requiring this land to be kept open.

The site at High Street for car parking is considered acceptable. With regard to the burden on the title of the land, no adverse comments have been received from the Council's Legal Services.

4.14 40,000 sq ft of offices would normally require approximately 30 car parking spaces. There is adequate space still in the multi-storey car park but whether this is adequate for all day parking has yet to be demonstrated. If the Council wishes to occupy all/part of the development then the scheme is deficient in short-term parking for unloading/collection and therefore is contrary to Policy TL3 requiring all developers to provide adequate car parking as an integral part of their development proposals.

No end user of the office development has been identified at this stage. The Roads Division have no objections to the development and this is addressed in Section 3.9 of the report.

4.15 Loss of public amenity open space as the current car park is open space. Its amenity and purpose being visual and more importantly to serve the needs of car-borne shoppers.

The proposal will result in the loss in a small area of open space, however the larger area of open space and the Kay Park will be retained. It is considered that this loss is not significant in the wider context of open space provision in the immediate area.

4.16 The planning gain of a new public square is unjustified. A large historic area of public space is already available in the Town Centre where there is well used public space at the Cross, together with Burns and Ales Squares. A new square with a north-west aspect appears to be simply a sop to leave a partial view of a listed viaduct because its setting would be compromised by any new adjacent building. This open space would be overshadowed to the south by the bulk of the existing multi-storey car park and to the east by the new 3 and 4 storey blocks. Therefore it would have little amenity value.

A new public square is proposed which will improve the immediate surroundings and will allow greater appreciation of the listed viaduct as a backdrop to the development. It will also provide a valuable amenity space for office workers and people using Kilmarnock town centre.

4.17 This application is so significant that it should be detailed application as a considerable amount of design work has already been undertaken.

The proposal is examining the acceptability of the principle of the office development. Details regarding its design, siting and materials of the development will be addressed at the detailed stage. Both Historic Scotland and the Scottish Civic Trust support this office development at this outline stage.

4.18 The existing car park in front of the multi-storey car park is in constant use until very late in the night by young people who use the area as a meeting place and race track. They would not be prepared to accept this in front of their houses.

It is considered that the location of the proposed car park is acceptable. It is separated from residential properties by a busy road.

4.19 There already exists car parks such as in Portland Street, Church Street which are hardly used. This is easily seen by the amount of people who park in Church Street, Church Street, High Street and surrounding areas. It would become increasingly difficult for residents to park their own vehicles.

The formation of a car park at High Street is required to meet long term car parking provision for the proposed development.

4.20 There are other areas more suitable away from residential areas for the car park - John Finnie Street, Kilmarnock Infirmary area, Townholm or site of the old garage Boyd Street/Union Street which are currently an eyesore.

Members should consider the acceptability of the development before them.

4.21 This is largely a residential area. Any commercial building or car parking areas would do nothing for the area. It will result in the loss of a well kept landscaped area and will include the felling of all trees. Destroying this landscaped area for a car park does not constitute an environmental improvement.

It is acknowledged that the development will result in the loss of a landscaped area, however the loss of this area is not significant in the context of the wider public open space areas in the immediate area.

4.22 The objectors enjoy the view of the landscaped area which is directly across the road, completed by the view of the Kay Park in the background. Any changes would spoil this natural setting.

The right to a view is not a material planning consideration. The Kay Park will be unaffected by the current proposals.

4.23 High Street is a busy road and at peak times there are always tail backs extending up Townholm and Dean Lane. Many times it is impossible to cross the road. The proposed entry and exit to the car park will add more hazards to this area.

The Roads Division have no objections in principle to the proposed car park. The exact location of the access to the car park will be determined at the detailed stage.

4.24 The traffic that runs along High Street at the moment creates exhaust fumes is bad enough without adding to the problem by building a car park in High Street. There is no consideration for the "health" of people living in High Street.

This is an existing situation which will not alter significantly by the provision of a car park of 102 spaces.

4.25 There are other sites that could be used for a new office building. It would be better located to a less important site.

Members are advised to consider only the proposals before them.

4.26 There is as yet no guarantee that the office space would be let or sold. The offices are not required as is evident by the amount of "To Let" signs on display around the town centre.

This is not material to the consideration of this application.

4.27 A north-facing 'square' is proposed, as the Kilmarnock Cross has always been and still is the hub of the town.

Refer to response to 4.16.

4.28 There are already difficulties with the parking area to the rear of the houses in Boyd Street and in Boyd Court which would only become worse by drivers unwilling to pay for car parking who would dodge such charges by parking within these areas. Several disabled drivers in their area have found themselves without spaces due to the increasing amount of selfish drivers parking here to avoid fees. It would be of considerable benefit to have a Resident Parking Only Sign erected to deter these drivers.

This is an existing situation it is not envisaged that it will alter significantly with the approval of the proposed office development. Employees of the proposed office development will be encouraged to park in the new car park at High Street or other town centre car parks or use sustainable modes of transport. With regard to a sign for residents' parking only this could be considered separately by the Roads Division in the future.

4.29 A level of the multi-storey car park should be designated for the new office development as the top two floors are hardly ever used. It would utilise a white elephant and save the green space which would be ripped up and turned into a concrete eyesore.

The present application includes improvements to the multi-storey car park which are required to compensate for the loss of the Foregate North car park. The proposed car park at High Street is required to provide long term car parking for the development.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (2003).

Ayrshire Joint Structure Plan (AJSP)

5.2 Policies ADS2 and T1 of the AJSP are relevant to the determination of this application. Policy ADS2 states that Kilmarnock will be promoted as one of the primary locations within Ayrshire for all major residential, economic, commercial, cultural, educational and community development.

The proposed development seeks to provide for a major office development and will promote Kilmarnock's position as a major

commercial centre. The application is considered to meet the terms of Policy ADS2.

5.3 Policy T1 outlines 9 criteria that it seeks proposals to meet in order to achieve sustainable transport aims. Criteria includes, minimising the demand for travel by private car, improving disabled access, and maximising facilities for walking and cycling as alternative means of transport, and enhancing access to town centres by all forms of transport and provide appropriate parking. The policy seeks to maximise the use of public transport by encouraging new development in locations which are accessible by means other than the private car.

The site lies within the town centre and is accessible by public transport. One of the main benefits of this site is that the bus and rail stations are in close proximity. The proposed development also provides for car parking in order to compensate for the loss of the existing car park. The proposal generally promotes the use of public transport and is considered to meet the provisions of Policy T1.

East Ayrshire Local Plan (EALP)

5.4 Policies SD5, SD6, RTC 2, IND 1 and IND 6 of the EALP are relevant in the determination of this application and Policies TLR 8 and TLR 9 in relation to car parking area. Policy SD 5 states that the Council will positively encourage three particular types of development, all of which are pertinent to this application namely:-

- The integration of complementing and compatible land uses for residential, work and recreational purposes.
- Development at the nodes of existing or potential public transport routes; and
- Development in support of the retention or provision of services and facilities of value to local communities will be particularly encouraged.

The proposed development is sited in an accessible town centre location and provides opportunities for those employed on the site to live close to their place of employment and use town centre recreational facilities. The site is also well located in terms of existing public transport nodes such as the bus and rail stations in close proximity. It is further considered that the development and subsequent workforce would have a positive effect on the economy of the town centre helping to support shops, bars and other leisure facilities in line with this policy.

5.5 Policy SD 6 positively encourages the re-use and re-development of brownfield land in preference to greenfield sites.

The re-use of land within the town centre currently used as a car park meets the terms of this Policy.

5.6 Policy RTC 2 states that the types of development detailed in Schedule 5 of the local plan will be considered acceptable in principle within town centres.

Schedule 5 states that Class 2 (Financial Professional and Other Services) are acceptable within the town centre. The application does not state whether it is Class 2 or Class 4 (business). However it is considered that the offices use that is to be accommodated within the proposed development are likely to comprise Class 4 (Business) Uses in terms of the Use Class Order 1997. Such Class 4 use is not currently identified as an acceptable town centre use in terms of Policy RTC 2. Whilst such a use would be technically contrary to Policy RTC 2 it is considered that a Class 4 office use as proposed would make a positive contribution to vitality and viability of the town centre by bringing new life and activity.

5.7 Policies IND 1 and IND 6 are also relevant. Policy IND 1 restricts development on strategic industrial and business sites to the key access points on the public and private transport network within Kilmarnock and Cumnock/Auchinleck areas. Policy IND 6 requires all business proposals on land not specifically specified for such purposes to be justified against 8 criteria of which the following are applicable:

- A locational need;
- B availability of alternative land/premises in established areas or on land identified as part of the marketable industrial land supply;
- C economic benefit;
- D Impact on surrounding environment and adjacent uses;
- E transportation and infrastructure implications;
- F loss of public amenity open space;
- G impact on natural and built resources.

In terms of Policy IND 1, the proposed development is located within Kilmarnock town centre and is easily accessible by public and private transport and therefore complies with this policy.

In terms of Policy IND 6 it is considered that there is a locational need for a prestigious office development of the type proposed to be located within Kilmarnock town centre. Such a development will have a strong positive effect on the town centre in terms of potential improvements to the environment, confidence in the town's property

market and economic benefit to town centre facilities. It could also act as an important catalyst to other future town centre developments.

Whilst alternate industrial and business land is available for such a development such as at Rowallan Business Park. It is considered that there is a significant lack of modern office facilities within Kilmarnock town centre and the development will bring significant economic benefits to the town centre. It will create a large number of jobs within the town centre and there will be associated spin off benefits for other businesses in the town centre catering for the needs of those employed by the development.

With regard to the impact of the development on surrounding environment and adjacent uses detailed design issues will be dealt with at the reserved matters stage. However it is acknowledged at this stage it is very important how the design, siting and height of the building relates to the surrounding environment in particular the 'B' listed viaduct and the skyline which incorporates the viaduct, churches and buildings, all of which are listed and contribute to the amenity of the town centre. Both the Scottish Civic Trust and Historic Scotland are supporting this development and both advocate that the final quality of the development will be based on the quality of materials and the attention to detail which will enhance and complement the surrounding buildings and the townscape.

Transportation issues are dealt with in Section 3.12 of the report, the development has been sited in this particular location to facilitate a reduction in car use and promote a genuine choice of transport mode.

5.8 The proposed car parking area relates to an area of safeguarded public open space identified in EALP and therefore Policy TLR 8 and TLR 9 are relevant. Policy TLR 8 presumes against development on safeguarded area of public recreational or amenity open space. Certain types of development will be considered appropriate on these areas such as new playing fields, bowling and putting greens, new children's play areas and all weather sports facilities. Policy TLR 9 will only permit the development of public recreational or amenity open space in 3 exceptional circumstances as follows:-

- i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site and where the development would not adversely affect the overall sporting, recreational and amenity value of the site itself; or

- ii) Alternative provision of equal community benefit and accessibility can be made available within close proximity to the site; or
- iii) There is a clear, long term excess of pitches, playing fields and amenity open space in the wider area.

The proposed car park development does not meet any of the criteria of both Policies TLR 8 and TLR 9 and therefore is considered contrary to these policies. However as the car park is associated with the larger office development which will bring significant economic and environment benefits to the area an exception to policy can be justified in this instance. This landscaped area is also located adjacent to recreational and amenity open space and the Kay Park.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultation responses and letters of representation detailed in Sections 3 and 4 of the report and the site's planning history.

Consultation Responses and Representations Received

6.2 The consultation responses are detailed in Section 3 of this report. The consultation responses received are supportive of application and it is not considered that these warrant refusal of the application. The advice of the Scottish Civic Trust and Historic Scotland with regard to materials can be addressed at the detailed stage.

6.3 The concerns of the objectors regarding the loss of car parking have not been supported by the Roads Division. The development is fully supported by the Scottish Civic Trust and Historic Scotland with regard to its contribution to the townscape.

Planning History

6.4 04/0033/OL - Proposed 3-4 Storey Office Development and Formation of Public Square and Associated Road and Access Alterations withdrawn on 03 November 2004. This development included largely the same site as the application under consideration. It did not include the site at High Street. It involved an office development of 7,100 sq metres gross floorspace with 6,200 sq metres net floorspace proposed.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Legal implications arise as the application requires to be notified to the Scottish Ministers under the provisions of the Town and Country Planning (Notification of Applications)(Scotland) Direction 1997 because the Council has an ownership interest in the site and the application is contrary to the development plan.

8. CONCLUSIONS

8.1 As indicated at Section 5 of the report, the application is contrary to 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 refused unless material considerations indicate otherwise.

8.2 As indicated at Section 6 of the report there are material considerations relevant to this application. The concerns of the objectors are noted, however they are not considered to be of sufficient weight to justify a recommendation of refusal. Their concerns regarding the loss of car parking have not been supported by the Roads Division, as they are satisfied that the additional car parking proposed at High Street and appropriate measures to the multi-storey to encourage and enhance its attractiveness for potential users compensate for the loss of the Foregate North car park.

8.3 Although the proposed development is essentially contrary to the local plan, it is considered that the positive economic benefits that a prestigious office development of the type proposed allows an exception to policy in this instance and adds further weight to the material considerations. The proposed office development would have a positive effect on the economy of the town centre helping to support town centre, shops, bars and leisure facilities and thereby positively contributing to the vitality and viability of the town centre by bringing new life and activity into this area.

8.4 The indicative plans showing a modern contemporary design for the office development. This site is very prominent in terms of the Kilmarnock townscape and the development will provide an important enduring addition to the Kilmarnock built environment. The design and siting of the development should take cognisance of the adjacent listed viaduct and listed buildings in close proximity and this will be addressed at the reserved matters stage. However it is important at this stage, that the applicant is given general advice of what would be acceptable at the detailed stage.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheet and that the issuing of the planning decision notice be withheld until the application has been referred to and cleared by the Scottish Ministers under the Town and Country Planning (Notification of Applications)(Scotland) Direction 1997.

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

05 April 2005
(FMF/PC/MMM/SA)

FV/AN

LIST OF BACKGROUND PAPERS

1. Application Form and Plans and Documents - Transportation Assessment, Car Park Feasibility Study Report.
2. Consultation Responses.
3. Statutory Notices/Certificates.
4. Letters of Representation.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.

Anyone wishing to inspect the above papers please contact Pamela Clifford on 01563 576798.

Implementation Officer: Alan Neish

04/1150/OL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1150/OL

Site of Proposal:	Foregate North Car Park Green Street KILMARNOCK KA1 1LU
Nature of Proposal:	Proposed 3 to 4 Storey Office Development, Public Square, Environmental Improvements and Car Park in High Street with Associated Access
Name & Address of Applicant:	Scottish Enterprise Ayrshire 17/19 Hill Street KILMARNOCK KA3 1HA
Name & Address of Agent:	John Walker 27 Kirkton Road Fenwick KILMARNOCK KA3 6DJ

DPOs Reference: PC/FMF/MMM

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

1. The proposed development shall be carried out in accordance with the application form submitted on 16 November 2004, the plans, Transportation Assessment and Car Park Feasibility Study report submitted on 08 November 2004 and the amended location plan submitted on 03 March 2005.

REASON To enable the Planning Authority to retain control over the development of the site.

2. Before any development commences on the 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, design and external appearance of the proposed office development;
- (c) The means of drainage and sewage disposal;
- (d) Details of the proposed access arrangements;
- (e) The provision for open space;
- (f) The provision for car parking;
- (g) The boundary walls/fences to be erected (including flood defence walls);
- (h) The hard and soft landscaping of the site and maintenance arrangements;
- (i) Existing and finished site levels and proposed finished floor levels;
- (j) The design, size and materials for the public square and surrounding roads and footpaths;
- (k) External lighting scheme;
- (l) The provision for public art;
- (m) Proposed commercial bin store arrangements for re-cycling, storage and collections.
- (n) The proposed car park at High Street including number of car parking spaces and extensive landscaping and tree planting around the perimeter and within the car park

REASON The approval is in outline only.

3. That the indicative layout and elevational plans submitted along with the application are for information purposes only and shall not be treated as forming part of the issued consent.

REASON The approval is in outline only.

4. 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 the office building and the car park being brought into use.

REASON To ensure that adequate drainage is provided.

5. During the construction period, 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 interest of public and road safety.

6. Details to be submitted under condition 2(b) above shall ensure that the proposed building is no more than 3 storeys in height especially when in close proximity to the listed viaduct and it is no more than 4 storeys in overall height.

Its design and siting shall take cognisance of the listed viaduct and listed buildings in close proximity and it shall be of a modern contemporary design solution for the town centre, adding contrast and character to the townscape. A range of materials and design features should be incorporated which will reduce the scale and bulk of the development and which will complement the surrounding townscape.

REASON The proposed site is very prominent in terms of the Kilmarnock townscape, and such a development should complement the adjacent listed viaduct and listed buildings

7. No development shall begin on site with the exception of 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:

1. The nature, extent and type(s) of contamination on the site;
2. A site specific risk assessment of all relevant pollutant linkages.
3. Remediation measures to treat/remove contamination to ensure the site is fit for the use proposed;
4. Measures to deal with unsuspected contamination discovered during construction works;
5. Condition of the site on completion of decontamination measures;

Prior to the occupation of the office development the measures to decontaminate the site shall be fully implemented as approved by the Planning Authority.

REASON In the interests of amenity and public safety.

8. On completion of the remedial works approved under the terms of Condition 7 above, and prior to occupation of the office development, the developer shall submit a report which shall be approved in writing by the Planning Authority confirming that the works have been carried out in accordance with the remediation plan.

REASON To provide verification that remediation of contamination has been carried out in accordance with the remediation plan.

9. No development shall commence on site with the exception of those works required under the terms of Condition 7 above as site investigative works, until a comprehensive Flood Risk Assessment (FRA) has been submitted to and approved in writing by the Planning Authority. Any necessary measures arising from this FRA shall be implemented on site as approved prior to the office development being brought into use.

REASON In order to satisfy the provisions of SPP 7.

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

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

11. The external lighting scheme required under the terms of Condition 1(k) shall include details of the lighting scheme for the car park, service areas, circulation areas and building illumination scheme.

REASON In the interests of the amenity of the area.

12. Prior to any works commencing on site, details of all boundary treatment to the site for the entire period of construction shall be submitted to and approved in writing by the Planning Authority. Any proposed advertisements shall require the express written consent of the Planning Authority under the terms of The Town and Country Planning (Control of Advertisements)(Scotland) Regulations 1984.

REASON In the interests of the visual amenity of the surrounding area.

13. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

REASON To ensure that archaeological resources which may be present within the site are satisfactorily recorded.

14. The proposed car park at High Street shall be implemented on site prior to the office development being brought into use.

REASON To ensure that adequate car parking is provided.

15. Details to be submitted for approval under condition 2 above shall include the following:

- (a) Appropriate measures to strengthen the pedestrian linkages from the proposed office development to the pedestrianised central area (via the Square of Ales and Foregate Square), Kilmarnock bus Station and the car park proposed at High Street. The proposed pedestrian link to the car park at High Street shall include lighting and controlled pedestrian crossing points.
- (b) Appropriate measures to the multi-storey car park to enhance its attractiveness for potential users and help to restore it to full capacity.
- (c) A system of variable message signs on the main approaches to the town centre to display the availability of spaces in each car park.

All the above matters shall be implemented prior to the office development being brought into use.

REASON In the interests of pedestrian and road safety.

16. Notwithstanding the submitted information and prior to the commencement of development on site a Green Travel Plan shall be submitted for the approval of the Planning Authority and all measures arising from that shall have been implemented on site prior to the use of the office development.

REASON To encourage sustainable travel patterns.

NOTES:-

1. 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.
2. The developer shall make early contact with Scottish Water (0845 601 8855) to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. Scottish Water require this development to be drained in accordance with the recommendations contained in the CIIA manual on SUDS. Early contact with Scottish Water is also recommended relative to connection to the public water and sewerage systems. There is a strategic water main within the development site which will be required to be diverted at the developers expense.
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. It is recommended that the applicant makes early contact with Transco (Tel 0141 418 4084) prior to the commencement of works on site regarding the provision of gas mains in the vicinity.
5. It is recommended that the applicant contacts Network Rail (Tel 0141 555 4162) regarding their basic requirements in order to maintain their statutory obligation on ensuring the availability of safe train paths. A note is attached to the decision notice.
6. The proposed car park is located on land previously occupied by old tenemental housing and Mill Street. The developer should address any unforeseen ground issues that might arise during site excavation and preparation works. Any queries in this connection should be directed to the Council's Contaminated Land Officer on 01563 554016.
7. Any maintenance or Community Service Account held land which may be damaged by this application should be reinstated to the satisfaction of the Outdoor Amenities Manager or his nominee.
8. Early contact by the Developer with Network Rail is recommended in respect of the impact of the development particularly during the construction phase on the railway or Network Rail's Regional Asset Protection Engineer, 4th Floor, Buchanan House, 58 Port Dundas Road, Glasgow G4 0LG (Tel: 0141 335 3574).
9. SEPA have recommended that the developer be aware of their Pollution and Prevention guidelines and which is available at www.sepa.org.uk

**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.**