

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 10 JUNE 2005**

**04/1279/FL: SUBSTITUTION OF HOUSE TYPES FOR RESIDENTIAL  
DEVELOPMENT AND ASSOCIATED WORKS  
AT FORMER ROWALLAN CREAMERY SITE, GLASGOW ROAD,  
KILMARNOCK  
BY DAVID WILSON HOMES**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to make alterations to the previous planning consent 03/0923/FL by amending the number and types of houses from 25 to 29 plots within the rear section of the development. The road layout of the proposal alters from the original approved scheme and introduces two terraced blocks of five 3 storey town houses into the development.

1.2 In terms of finishes, it is proposed to finish all the dwellinghouses with grey concrete roof tiles, and facing brick clad walls as per the original scheme.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheets but that the decision notice be withheld until the Solicitor to the Council has concluded with the applicants a Minute of Variation in respect of the existing Section 75 Agreement relating to the site and addressing the matter raised in paragraph 7.2 of the report.**

**3. CONCLUSIONS**

3.1 The proposed development accords with 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 is indicated in Section 6 of the report, the material considerations are supportive of the application.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because such a decision would not represent a substantial departure from Council Policy.

**Alan Neish**

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

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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**Report by Head of Planning, Development and Building Standards**

### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation, due to the nature of the proposed development which comprises of 29 residential units.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The site extends to approximately 1.8 hectares and is located on the eastern side of Glasgow Road at the northern end of Kilmarnock. The site was previously occupied by buildings associated with the former Rowallan Creamery. The application site is the rear section of the former Rowallan Creamery compound.

2.2 **Proposed Development:** It is proposed to make alterations to the previous planning consent 03/0923/FL by amending the number and types of houses from 25 to 29 plots within the rear section of the development. The road layout of the proposal alters from the original approved scheme and introduces two terraced blocks of five 3 storey town houses into the development.

2.3 In terms of finishes, it is proposed to finish all the dwellinghouses with grey concrete roof tiles, and facing brick clad walls as per the original scheme.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objection to the proposal subject to the ground levels of plots 29 to 36 being revised and Plot 34 being relocated to take account of the 1 in 200 year rainfall event flood event.

**A condition can be attached to any grant of planning permission addressing this issue.**

3.2 Scottish Water does not object to the application, supports the use of a Sustainable Urban Drainage System and clarifies that connection to their infrastructure for water supply or waste water disposal is dependent on the spare capacity at the time the appropriate applications are made to them.

***Noted.***

3.3 The Scottish Environment Protection Agency (SEPA) has stated that they have no objection in principle to the proposed development. All foul drainage from the site should be connected to the public sewer. Written confirmation should be sought from Scottish Water to ensure that the additional flow arising from this development will not cause or contribute to the premature operation of consented storm overflows and that sufficient capacity exists within the network to adequately treat the increased load.

3.4 Any planning permission granted should include a condition requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland, which was published by CIRIA in March 2000.

3.5 It is possible that previous uses at the site as a creamery may have resulted in land contamination although no details have been received relating to the site history or its condition. With regard to the National Waste Strategy Local Area Waste Plan, suitable provision should be made with regard to space for waste storage at individual properties and the development as a whole. Such provision should be in line with the Council's collection plans to address the recycling, composting, recovery, and disposal targets contained within the Area Waste Plan and implementation plan.

***These issues can be addressed by condition.***

3.6 Southcraigs Dean Community Council have not responded at the time of writing this report.

***Noted.***

3.7 Transco have no objection to the proposal

***Noted.***

#### 4. REPRESENTATIONS

4.1 No letters of objection have been received in relation to this application.

#### 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 (2003).

##### Ayrshire Joint Structure Plan

5.2 There are no Structure Plan policies directly relevant to this application.

***Noted.***

##### East Ayrshire Local Plan

5.3 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

(i) impact on the surrounding natural and built environment and adjacent uses:

***The proposed substitute house types are compatible with the built environment and surrounding uses.***

(ii) transportation and infrastructure implications;

***See comments provided in Section 3 of the Report.***

(iii) compatibility with surrounding densities and housing types; and

***The proposal is considered compatible with surrounding densities and house types.***

(iv) compliance with the Council's Development Promotion and Design Guidance.

***The proposed houses are considered to be appropriate in the circumstances of this site.***

5.4 Policy RES19 requires all housing developers to provide areas of recreational and amenity open space in their developments to the indicative basic standards set out in Schedule 3 of the Local Plan. The policy states also that the precise type, size, location and design of the open space required is dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

***The site is provided with open space to appropriate standards.***

5.5 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

***The proposed substitute house types are compatible with Schedule 4 of the Local Plan.***

5.6 Policy IND 8 states that proposals for alternative uses of land on premises currently or formerly used for industrial purposes shall be considered acceptable subject to the following criteria: -

- (i) the proposed use not being detrimental to surrounding established uses;
- (ii) the proposal meeting with the requirements of all other relevant Local Plan policies; and
- (iii) the existence of alternative industrial or business land or premises with potential for future employment use with the settlement concerned.

***The use of the former industrial land for housing was justified in the determination of the original planning application for the residential use of the site.***

5.7 Policy TLR 5 states that the Council will request all potential developers of residential sites comprising four or more houses, to enter into a Section 75 Agreement with the Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the development relates. Contributions will be at a level to be agreed by the Council, based on the expected number of houses and the level of need in a particular area for particular facilities.

***The applicant entered into a Section 75 Agreement to provide a financial contribution of 1% of development costs to the Council under the terms of this policy as part of the original application. It would be appropriate for the Council to enter into a Minute of***

***Variation to the original Section 75 Agreement to ensure that the contribution requirement remained applicable to houses constructed under any new consent.***

5.8 Policy ENV 18 states that in cases where a development is proposed on land which is known or suspected to be contaminated, the Council will require the developer to investigate and identify the nature of the contamination and detail the remedial measures to be undertaken to treat or remove the contamination, as an integral part of any submitted planning application. In this regard, developers will be required to carry out a Risk Assessment of the development site as detailed in PAN 33 (revised 2000): Development of Contaminated Land, Annex 1.

***A Site Investigation Report has previously been submitted by the applicant however, the matter can be further addressed by condition.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses and the planning history of the site.

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused. Appropriate conditions can address issues in respect of the site levels, SUDS and contamination.

### Planning History

6.3 Planning Application 03/0097/FL: A full planning application for the erection of 42 no. new dwellinghouses along with ancillary works at the site was withdrawn on 12 September 2003.

6.4 Planning Application 03/0923/FL was approved for the erection of 41 houses at the site on 20 January 2005.

6.5 Planning Application 04/1271/FL was approved for the erection of 12 houses at the northern section of the site on 13 May 2005.

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

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

7.2 The existing Section 75 Agreement relating to a contribution to the Sports Leisure Recreation Fund makes reference to the original larger application and would require to be varied to tie this consent into the same requirements.

## **8. CONCLUSIONS**

8.1 The proposed development accords with 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 is indicated in Section 6 of the report, the material considerations are supportive of the application.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheets but that the decision notice be withheld until the Solicitor to the Council has concluded with the applicants a Minute of Variation in respect of the existing Section 75 Agreement relating to the site and addressing the matter raised in paragraph 7.2 of the report.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee because such a decision would not represent a substantial departure from Council Policy.

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

03 June 2005  
(CSI/MMM/RH)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Planning application reference 03/0097/FL, 03/0923/FL and 04/1271/FL.

Anyone wishing to inspect the above background papers should contact Craig Iles 01563 576772.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1279/FL

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Site of Proposal: Former Rowallan Creamery  
Glasgow Road  
KILMARNOCK  
KA3 6AB

Nature of Proposal: Substitution of House Types for Residential  
Development and Associated Works

Name & Address of Applicant: David Wilson Homes  
251 Springhill Parkway  
GLASGOW  
G69 6GA

Name & Address of Agent:

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DPOs Reference: CSI/MMM

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

1. Apart from where the conditions listed below require otherwise, the proposed development shall be carried out in accordance with the application form received on 24 December 2004 and the amended plans received by the Planning Authority on 21 April 2005.

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

2. Notwithstanding the approved details the layout and levels of plots 29 to 36 are not hereby approved. Revised plans shall be submitted to and approved by the Planning Authority for Plots 29 to 36 addressing the issues raised by the 1 in 200 year rainfall flood event.

REASON To ensure that the proposed dwelling houses are not detrimentally affected by a 1 in 200 year rainfall flood event.

3. Notwithstanding the terms of Condition 1 above, prior to the commencement of works on site, samples of all materials to be used for the external finishes of the buildings and surfaces of the internal access road and parking spaces shall be submitted to and approved in writing by the Planning Authority and thereafter implemented as approved.

REASON To ensure that full details of all the external finishes of the buildings and internal road and parking spaces including colours, are agreed.

4. Notwithstanding the terms of Condition 1 above, prior to the commencement of works 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. Prior to the occupation of any dwellinghouses within the site, the SUDS arrangement approved under the terms of this condition shall be installed and be fully operational.

REASON To ensure for the provision of adequate surface water drainage within the site.

5. External construction works shall take place only between 8 am and 6pm, Monday to Friday, and between 9 am and 5 pm on Saturday. No such works shall be undertaken at any time on Sunday.

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

6. Notwithstanding the terms of condition 1 above, prior to the commencement of works on site, details of any security and safety fencing required during the period of site development shall be submitted to and approved in writing by the Planning Authority.

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

7. Notwithstanding the terms of condition 1 above, a landscaping scheme shall be submitted to and approved in writing by the Planning Authority prior to the commencement of any development, and shall be implemented not later than the next appropriate planting season after the development has been carried out, and shall be maintained thereafter to the satisfaction of the Planning Authority. The scheme shall include full details of the play equipment to be provided in the equipped play area adjacent to Plot 35; such equipment to be installed prior to the occupation of Plots 34 and 35.

REASON To ensure that adequate landscaping and play equipment is provided within the site and that it is subsequently maintained, in the interest of residential and visual amenity.

8. Notwithstanding the terms of condition 1 above, prior to the occupation of any of the dwellings to which they relate, the internal road layout and vehicle car parking spaces shall be provided and operational, in accordance with the approved plans to the satisfaction of the Council as Planning Authority.

REASON To ensure appropriate parking facilities are available within the site for incoming residents.

9. Notwithstanding the terms of condition 1 above, prior to the start of any decontamination works required on the site, the Planning Authority shall be given a minimum of 7 days' written notice and full details of the works including remediation measures to treat/remove contaminants to ensure the site is suitable for the use proposed.

REASON To provide the Planning Authority with adequate notice to arrange the monitoring of any decontamination works.

10. Notwithstanding the terms of condition 1 above, details of the location, design and construction of all boundary and retaining features, fences and walls to be erected on the site shall be submitted to and approved in writing by the Planning Authority before any development commences on the site.

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

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any order or enactment replacing this, no extensions or garages (unless forming part of the approved layout plan) shall be erected on the site unless a further specific planning application is submitted to and approved by the Planning Authority.

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the area.

12. Prior to the commencement of development on site the applicant shall submit written confirmation of the suitability of the proposed bin storage arrangement to accommodate the Council's 3-bin re-cycling scheme and revised drawings indicating any proposed bin store details. Thereafter, any bin storage shall be provided as agreed by the Planning Authority.

REASON In the interests of visual amenity and public health.

13. Prior to the commencement of works on site, details of the proposed line of the new culvert in the site, including manhole details and localities along the culvert, shall be submitted to the Planning Authority for approval in writing. Prior to the occupation of any dwellinghouses within the site, the culvert arrangement

approved under the terms of this condition shall be installed and be fully operational in accordance with the approved details.

REASON To allow for the provision of adequate drainage within the site.

14. Glasgow Road shall be kept clear of mud or other deposited materials at all times during the construction of the houses hereby approved. This shall be undertaken by means of mechanical brushing as appropriate.

REASON In the interests of road safety.

#### NOTES TO APPLICANT:

1. Prior to the commencement of development on the site, the applicant should satisfy himself as to the suitability of the site for construction purposes.
2. SEPA have advised that all drainage arrangements should be to the public sewer and consideration given to the use of Sustainable Urban Drainage (SUDS) techniques for the disposal of surface water. SEPA have further advised that any waste arising should be disposed of at a suitably authorised site. The developer is advised to contact SEPA at 2 Alloway Place, Ayr, KA7 2AA, Tel 01292 294 000, particularly with regard to confirming the consequences, if any, of surface water drainage connection to the public sewer.
3. The applicant should make early contact with Scottish Water at their Office at 35 Glenburn Road, Prestwick, KA9 2NS, Tel 0845 601 8855.
4. Following the advice in Note 3 above, the developer is advised that the Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific arrangements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA. The developer should not assume that East Ayrshire Council will undertake maintenance unless there is a site specific agreement to that effect. Where the developer makes his own maintenance arrangements, the Council will require to be convinced that these will work without impact on Council interests.
5. The applicant will require to secure the necessary Roads Construction Consent, details of which should be discussed with the Roads and Transportation Division of East Ayrshire Council.

6. The applicant should contact Scottish Power to discuss alteration/protection of their apparatus within the site.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
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VIEWING PLEASE CONTACT (01563) 576790.**