

**EAST AYRSHIRE COUNCIL**

**NORTHERN LOCAL PLANNING COMMITTEE: 22 JUNE 2007**

**04/0297/RM: PROPOSED ERECTION OF 35 RESIDENTIAL  
DWELLINGHOUSES, INSTALLATION OF BIN STORE AREA AND  
VARIATION TO CONDITIONS 4 AND 11 (d) OF PLANNING CONSENT  
98/0365/OL  
AT ROWALLAN CASTLE ESTATE, KILMARNOCK  
BY CHARLES CHURCH DEVELOPMENTS LTD**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The applicants are applying for reserved matters consent to erect 35, two storey dwellinghouses within the grounds of Rowallan Estate, Kilmaurs. They are proposing to erect the houses within five clusters (A to E) spread throughout the grounds and positioned so as to minimise the visual intrusion into the designed landscape and setting of the castle.

Following the original submission the applicant has amended the proposal to incorporate a bin store, however, recently they have advised they no longer wish to pursue this option and will rely on a house to house collection by the Council's Refuse Service. Late in discussions concerns were raised relating to the wording of Condition 4 and 11 (d) on the original consent and now wish to vary these.

Condition 4

"The phasing schedule referred to in Condition 3 above shall include the phasing of the housing clusters shall not commence until the preceding cluster, including landscaping works, has been completed to the satisfaction of the Planning Authority."

Proposed change to:-

*"The phasing schedule referred to in Condition 3 above shall include the phasing of the housing clusters. Where feasible or practicable, development of the housing clusters should not commence until the preceding cluster is substantially completed ensuring that the clusters can be developed with continuity of both construction and marketing. Landscaping works on each cluster will be implemented during the first available planting season following substantial completion."*

Condition 11 (d)

"Housing roads will be 3.5 metres in width with a service strip of up to 2 metres on at least one side. Intervisible passing places at no greater than

150 metre centres will be provided. Such housing roads will serve individual dwellings or housing courts from their private accesses and will terminate in a turning circle sufficient for service vehicles;”

Proposed change to:-

*“Housing roads shall vary in width as detailed on the Road Construction Consent drawings as submitted to East Ayrshire Council by T Lawrie & Partners, following consultation with Roads & Transportation and the Planning Authorities. All roads to have a service strip of up to 2 metres on at least one side. Where roads are 3.5 metres in width, intervisible passing places at no greater than 150 metre centres will be provided. Such housing roads will serve individual dwellings or housing courts from their private accesses and will terminate in a turning area sufficient for service vehicles;”*

The applicant’s claim the phasing arrangement specified under Condition 4 was not practical and have asked to amend this to one which relates the normal building practices at a house-builder, whilst minimising the disruption to the setting and landscape of the estate grounds.

Similarly, Condition 11 (d) related to the width of all roads within the development being kept to a maximum of 3.5 metres wide. However, following lengthy discussions with the Council’s Roads & Transportation Division, it is proposed to construct the roads to a maximum of 4.8 metres wide with verges to satisfy current roads construction and highway safety requirements.

## **2. RECOMMENDATION**

**2.1 It is recommended that the Planning Application be approved subject to the conditions indicated on the attached sheet, but that decision notice not be issued until the application has been notified 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 in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be approved unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the applications however it is considered that these are not of sufficient weight to merit refusal.

## **CONTRARY DECISION NOTICE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application will require to be referred to the Parent Planning Committee as that would be a significant departure from Council policy.

**Alan Neish**  
**Head of Planning and Economic Development**

**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 and Economic Development**

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to present for determination a reserved matters planning application following on from the original approval of outline planning consent 98/0365/OL, which is to be considered by the Local Planning Committee under the scheme of delegation, as it is subject to objections.

### **2. APPLICATION DETAILS**

**2.1 Site Description:** The application site encompasses the entire Rowallan Estate and is the same extent as that granted at the outline stage. The application site comprises approximately 80ha and is located to the north of the B751. The site lies in open countryside to the north of Kilmarnock and the north-east of Kilmaurs. The site, although wooded, is predominantly surrounded by agricultural land and the occasional residential property.

**2.2 Proposed Development:** The applicants are applying for reserved matters consent to erect 35, two storey dwellinghouses within the grounds of Rowallan Estate, Kilmaurs. They are proposing to erect the houses within five clusters (A to E) spread throughout the grounds and positioned so as to minimise the visual intrusion into the designed landscape and setting of the castle.

Following the original submission the applicant has amended the proposal to incorporate a bin store, however, recently they have advised they no longer wish to pursue this option and will rely on a house to house collection by the Council's Refuse Service. Late in discussions concerns were raised relating to the wording of Condition 4 and 11 (d) on the original consent and now wish to vary these.

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The applicant's claim the phasing arrangement specified under Condition 4 was not practical and have asked to amend this to one which relates the normal building practices at a house-builder, whilst minimising the disruption to the setting and landscape of the estate grounds.

Similarly, Condition 11 (d) related to the width of all roads within the development being kept to a maximum of 3.5 metres wide. However, following lengthy discussions with the Council's Roads & Transportation Division, it is proposed to construct the roads to a maximum of 4.8 metres wide with verges to satisfy current roads construction and highway safety requirements.

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

3.1 East Ayrshire Council's Roads and Transportation Division have not raised any objections and have asked that the following recommendations be taken into account:

- a) In order to determine the design standard the new roads are to be designed to, the Roads Division recommends that a 30 m.p.h. speed limit be established within the new development. This should commence at the junction with the B751 and will require a traffic order to be promoted by the Roads Authority.
- b) The existing access roads into the estate which currently have road construction consent should be completed and adopted or there should be a road bond security sufficient to complete them lodged with the Council.
- c) Regarding the phasing of the development the Roads Division has no objection, except that sufficient road bond security must be established for all roads, both existing and new construction, over which access will be required.
- d) The location of the bin store should not obstruct the sightline visibility for the new road into clusters D and E.
- e) No details of the bridge construction have been submitted and therefore comment of the adequacy of these structures can not be commented on at present.
- f) Similar comments relating to the lighting provision should be taken.

***The concerns expressed by the Roads Division can be dealt with by way of conditions and advisory notes attached to any consent.***

3.3 SEPA Scottish Environment Protection Agency (SEPA) advise that they have no objection in principle to this proposal, however SEPA have significant concerns regarding the plan submitted with this application (drawing no PL (2-01) Revision H) which shows a culvert between house clusters D and E.

SEPA understood from discussions previously held between the applicant and officers from our Ayr office that any river crossing required would be bridges.

The Water Environment (Controlled Activities) (Scotland) Regulations 2005 were implemented on 1 April 2006. To comply with this legislation all river crossings require to be authorised by SEPA.

SEPA would ask that the applicant provide clarification with regards to their intentions in respect of the Carmel Water. The Agency has a tacit presumption against culverting of watercourses and would endorse the guidance provided by Scottish Executive to planning authorities on its national policy in respect of watercourse and culverting in NPPG 14. 'Planning and the National Heritage' promotes watercourse as "both valuable landscape features and wildlife habitats", for which planning should "seek to safeguard their natural heritage value". These small streams, and more significantly, the protection of the existing riverbanks and the wildlife corridor they are part of, should be considered in order to at least maintain the watercourse current environmental status.

SEPA also require that a Sustainable Urban Drainage System (SUDS) is developed on the site.

In keeping with SEPA's responsibilities under 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 recycling, composting, recovery and disposed targets.

SEPA would also draw the applicants attention for the advice contained in SEPA's Pollution Prevention Evidence Notes to ensure that all adequate mitigation measures are taken during the construction phase of the project to protect the Carmel Water and its tributaries from pollutants commonly associated with this phase of development.

***Conditions and advisory notes can be attached to any grant of planning consent to address the concerns and matters raised.***

3.4 Scottish Natural Heritage (SNH) note that the layout of the housing has changed, with the number of units reduced from the previous proposals and changes to the road layout. Our comments of 5 May 2004 raised concerns over the loss of contemporary woodland to the south west of the site, these concerns remain applicable.

Cluster A – We note the change in layout and reduction of units, we have no objection to this amendment.

Cluster B – There has been a substantial change to the access road and housing layout. We have no objection to this change although are disappointed the SUDS wetland area has been removed from this application.

Cluster C – There has been an increase in the number of units and changes to the road layout. We also note that a new bridge is being installed adjacent to the existing bridge, we have no objection to this.

Cluster D – We welcome the housing cluster has removed units from the western edge close to the burn in order to protect the contemporary woodland. The revised layout proposes housing in an area of open space. We are again disappointed that the reed bed system appears to have been lost from this area.

Cluster E – In our advice of 5<sup>th</sup> May we recommended removal of all the units from this area. The footprint for development of cluster E has been expanded, this will lead to even greater losses of the contemporary woodland which raises even greater concerns for SNH. We also have concerns that the installation of utilities to this area will lead to further tree loss which should be indicated if approval for this area is likely.

***The concerns of SNH are noted and it is envisaged that the points they raise can be covered by conditions and notes attached to any consent. The developer has advised that no trees will be felled within any of the clusters.***

3.5 The Architectural Heritage Society of Scotland note that the two main areas to be developed for housing have been examined during a Planning Local Inquiry and again in 2004, when the housing layout now amended, was approved.

The Society is therefore satisfied that the location of Clusters A, B, C, D and E would be the least damaging, in terms of impact on the essential core of the estate the entrance, the drive and the approaches to both Old and New Castles.

Concerns have been expressed what aspects of the house types, materials, boundary treatments, lighting and trees.

Essentially they are content with the layout but object to the form and style of houses. With fussy detailing like half-moon metal railings on balconies, pretentious entrance features and the rather hackneyed conical turret, they are at times an unhappy mixture of suburban golf course – Home Countries style with a few Scottish details appliquéd.

***Again the latest scheme has moved on and all houses will be located within the agreed five clusters. The landscaping, design of properties and layout have all been used to help mitigate any potential adverse impact on the wider area. The properties will all be finished in a wet dash render with slate roofs.***

3.6 Scottish Civic Trust make the following comments:

- Road Width: The Trust is happy to accept the guidance of the Roads Department on the necessity of widening some of the roads in the interest of safety. We would ask that where there are options widening of the historic estate drives is avoided or minimised with a view to retaining as much of their character as possible.
- Phasing of Development: The Trust is mindful of the significance of the designed landscape at this site. As such, we would wish to see the landscaping of each cluster completed sympathetically, in a timely manner and to a high standard. Our understanding is that the Condition was applied with a view to ensuring such an outcome. We would be prepared to see some flexibility introduced as long as adequate safeguards were put in place. We suggest that the developer be permitted to commence on the next cluster if he provides a detailed, realistic project plan for the landscaping of the current cluster and that this is completed before work commences on a third cluster.
- Bin Store: The Trust does not object to the proposed location of the bin store. Clearly it will be necessary to transport bins too and from the clusters. In order to provide amenity to the new householders and to ensure responsible disposal of the refuse we suggest that this transporting is specifically covered within a factoring agreement.

***It is crucial to note that outline consent was granted for 49 houses at the Planning Local Inquiry. Of the 49 houses granted 35 were the mainstream being considered today and the remaining 14 were timeshare/holiday type units. Given the planning history of this site and the extent of development consented within the designed landscape, it is considered unreasonable to expect anything other than the size and scale of housing proposed. The Council have attempted to mitigate the impact of the houses, through linkage, materials and landscaping. However, the principal of five clusters was agreed at the Planning Local Inquiry and in order to be marketable within the estate it was inevitable they would be large properties.***

***The road width is necessary for modern safety standards. The phasing needs to be altered to more reflect effective building standards.***

***The bin store has been dropped at the location proposed.***

3.7 West of Scotland Archaeology Service (WOSAS) advise that the original condition on the outline consent was badly worded and have suggested a revised wording.

*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. Therefore the developer shall ensure that the programme 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.*

***This condition can be attached to any consent granted.***

3.8 Scottish Water advise that they will not object to this planning application however note that any planning approval granted by the Local Authority does not guarantee a connection to their infrastructure until a satisfactory solution is identified.

Amlaird Water Treatment Works currently has sufficient capacity to service this proposed development.

There are no known public sewers in the vicinity of the proposed development. It is advisable that any septic tank should be sited in such a manner as to allow easy access for emptying by tanker.

Due to the size of this proposed development it is necessary for Scottish Water to assess the impact of this development on our existing infrastructure.

In view of the network issues it will be necessary for the developer to ensure that this development will not have any detrimental impact on the water services that we currently provide to our existing customers. The developer will be required, as part of any network upgrading work, to provide a solution that would prevent or mitigate any further impact.

***The requirements of Scottish Water can be dealt with by way of conditions and notes on any consent.***

3.9 Scottish Wildlife Trust Advise that from the 1988 survey, areas of housing D and E are in the vicinity of badger setts. If the setts are inactive Scottish Wildlife Trust would not object.

With regard to areas A and B, water and landscape features should be constructed with benefits to wildlife as prime consideration. Additionally tree planting should be proposed to account for loss of habitat.

***A planning condition will be attached to any planning consent to survey for the presence of badgers or not. The overall estate will be well landscaped on completion which will create various habitat opportunities.***

3.10 The Garden History Society in Scotland advise that having withdrawn their objection to the proposal, but not in any way supporting the development in the designed landscape, it would be inappropriate for the Society to comment further.

***Noted.***

3.11 Stewarton and District Community Council – No response at this time.

***Noted.***

3.12 Scotland Gas Networks advise that there is High Pressure apparatus in the vicinity; accordingly a copy of your correspondence has been forwarded to their responsible engineer for the section, who will forward a separate reply in due course. It essential that no work or crossings of this high pressure pipeline are carried out until detailed consultation has taken place.

***An advisory note can be attached to my consent advising the applicant of the presence of this equipment.***

3.13 Coal Authority – No response to the latest consultation in November 2006.

***Noted.***

3.14 Historic Scotland advise that following the most recent amendments to the conditions of the earlier application which relate to road width and to phasing of the development, and also to a revised location for the bin/refuse store. They are content that these proposals will have no significant negative impact on the site or setting of the principal elements of the Rowallan Castle.

The previous consultation on the amended housing layout stated that they have considered this proposal and recognise that the revised plans have addressed the majority of our concerns regarding the setting of these designated structures, as listed above. Whilst they appreciate the efforts that have been made to mitigate the effects of the development, particularly through the use of the appropriate materials and contextual design, they remain concerned that the individual house types are out of scale in relation to the designated designed landscape. In particular Cluster B, with one of the largest house types, is planned in the immediate vicinity of Rowallan Castle. They believe that it will be clearly visible in the view to the east, and will therefore have a serious impact upon its setting.

They would ask whether the planting proposed in connection with the development complies with the terms of the Landscape Management Plan.

Therefore, whilst we have concerns about the above development, as detailed above, we do not intend to object to this proposal.

***Historic Scotland have not objected to the proposal and their concerns have figured large in the discussions relating to the house designs, layout and setting of the clusters. It is proposed to condition various aspects of the proposal to ensure that the development is mitigated as much as possible given its location within the designed landscape and relatively close proximity to the listed buildings within the estate.***

3.15 East Ayrshire Council's Cleansing Service advise that they would be willing to enter the site and collect from the clusters of households or an alternative to road end collection providing that the road was a suitable standard for 26 tonnes vehicles and that there was adequate room for manoeuvring and turning.

***Following the deletion of the bin store next to entrance, the applicant has confirmed that the site can be accessed by the bin lorries. The road in the site and the one bridge the vehicle have to cross has been given Road Construction Consent, however remedial works will be required to the bridge before collections can take place. In view of this it is proposed to condition that the final bin collection arrangements be submitted to and agreed in writing with the Planning Authority, prior to work commencing on site and thereafter the scheme being implemented prior to the occupation of the last house in the first completed cluster.***

#### 4. REPRESENTATIONS

The proposal was re-advertised in the Kilmarnock Standard on 25 November 2006. Eleven (11) objections have been received to the proposal since its submission on 15 March 2004. The objectors have raised the following concerns:

4.1 The objector is concerned that when he purchased his property, now almost 10 years ago, he was aware of the golf course proposal but considered this would not interfere with the privacy of his rural property. He considers the 35 houses will and given the proximity of one group to his house, he believes them to have a detrimental affect on his amenity.

***The houses were an integral part of the original outline consent and were granted in principle at the same time as the golf course.***

4.2 Concerns were expressed that the neighbour notification procedure was not correctly followed, with the applicant failing to provide a plan.

***The applicant's have certified that they have carried out all the necessary neighbour notifications.***

4.3 Further concerns expressed that the applicant had not made the community fully aware of his proposals for the site. The golf course was known about, however, the hotel, chalets and now housing, possibly up to 100 units was not made clear.

***The proposal for 35 houses formed part of an outline application for the golf course, hotel, housing and leisure activities, which was subject to a lengthy PLI. Again this and the present proposal were subject to the necessary neighbour notifications.***

4.4 Concern was expressed that the application was too late to be taken as a reserved matter on the original outline consent i.e within 3 years.

***The Council accepted the application in March 2004 as being within the necessary timescales for consideration as a reserved matters to the original outline consent.***

4.5 Access to Plots B and C was not shown on the submitted plans and the proposed plots require woods designed by Lorimer and part of the estate to be destroyed.

***The present plans clearly show all the housing clusters and access to and from them. The degree of tree removal has previously been agreed and the resulting landscaping and the position of the housing is not considered to significantly affect the overall estate.***

4.6 No attempt has been made to resolve outstanding matters relating to the original Section 75.

***The original Section 75 relating to the outline consent has now been discharged.***

4.7 The objector claims that due to a legal dispute with the applicant the title and a ownership of the site may be called into question.

***This is not a material planning consideration, but is rather a private legal matter between the parties concerned.***

4.8 Concern has been expressed at the proposed five independent housing areas, the resultant five sewage schemes and servicing requirements, which will detract from the designed landscape.

***The principal of the housing clusters was established at the Planning Local Inquiry for the outline application and the other concerns are an inevitable result of this approval.***

4.9 This is a grade 1 listed estate with 2 very important houses within it. Cluster B is being developed within sight of the old castle. Cluster D is being developed so that the first thing you see on entering the Estate policies is the cluster, which must impact very strongly on the designed landscape. Cluster E however is the worst of all. This is being proposed to be built on top of a long established badger's sett, so should not be allowed. This cluster would completely destroy Lorimer's vision for Rowallan and should not be allowed. Instead SNH and the Council should insist on a major replanting scheme.

***As stated earlier the principal of this development was agreed at the Public Local Inquiry for the outline consent. Given the size of the estate, it was arguably inevitable that 35 houses would impinge on the designed landscape and the listed buildings. However, it is considered that this proposal represents the best fit of housing into the estate, to minimise any likely adverse effects.***

4.10 Each proposed housing design individually look to be in keeping when you look at the design especially of the courtyard developments the proposals are almost terraced dwellings with little or no space between the properties. This cannot be suitable for a property of this significance and architectural importance.

***The linkage of the housing by the use of walls and garages primarily was an attempt to move away from the appearance of a modern detached building development. It was considered that this solution would better help the housing to relate to the estate and their setting within it.***

4.11 Nearly every cluster requires a bridge across the river Carmel and the building works associated with this will cause pollution to a river which together with the sewage outfall will lead to fish and frogs which have returned to the river for the first time for many years to be killed.

***The development will require ground works and bridges close to Carmel Water. The developer will require to work closely with SEPA to minimise the risk of any pollution. It is not envisaged that these works will have any significant long-term adverse affect on the local wildlife.***

4.12 Having said all that a suitable site where all 35 houses were together in a spacious surrounding would be much more economic, environmentally friendly and in keeping with the designed Lorimer landscape and setting of two listed buildings of great significance for East Ayrshire. I strongly urge the Council to reject this application and together with Historic Scotland and SNH find a more suitable location for this particular phase of the development.

***Any single site for 35 houses within the estate would have far greater adverse affects on the designed landscape and listed buildings. To locate outwith the estate, but adjacent to it would require a new planning application and was not what was envisaged at the Public Local Inquiry.***

4.13 Concern expressed that the estate is not now being open to the public, as originally proposed.

***The Council cannot impose a public right of way over private land. If the applicant chooses not to put forward the roads for adoption, then no private access will be possible.***

4.14 Why is housing being allowed in the Greenbelt in an area zoned for leisure purposes in the local plan? How given the size of the estate, is one of the housing pods so close to neighbouring properties.

***The housing was granted at outline stage following a Public Local Inquiry and was to enable the redevelopment of the listed building and the overall estate. The principal of clusters were proposed at outline and decided in detail to minimise any adverse effects on the listed structures or the overall estate.***

4.15 Again further concerns have been expressed at the repositioning of the housing clusters from that given in the outline application. No justification has been given to support this and the positioning is considered to be detrimental to the amenity of the neighbouring residential properties. If approval is forthcoming planting in advance of developing areas D and E is requested.

***The outline consent showed only indicated cluster positions and these have been relocated to minimise their intrusion on the designed landscape and so as not to significantly affect neighbouring properties.***

***The landscaping of the clusters will comprise part of the phasing covered in any revision to condition 4 as proposed by the applicant.***

4.16 Objections have been received from the owner of the site stating that;

- The refuse collection solution needs to be agreed
- The alignment and width of the road in Cluster B is not accepted and the bridge between areas B and C is incorrectly positioned
- The courtyards should be deleted in lieu of turning heads and all car parking should take place within the plots
- The house designs remain unacceptable and should be constructed to the same built form and massing as the existing architecture within the estate. The houses should not be of timber frame construction.

***The refuse collection will require to be agreed by condition, following the deletion of the proposed bin store. The roads, turning areas, etc have all been arrived at following lengthy discussions between the applicant's engineers and the Council's Roads Division.***

***Finally, with regard to the houses, the Council's Planning Division cannot decline timber frame construction and the style and positions have been arrived at following lengthy discussions and consultation, and are considered to minimise any adverse affect on the estate, whilst providing a sympathetic and appropriate design solution.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless materials 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**

The principle of this housing development in the Rural Protection Area has been established by the granting of an outline application for uses including residential. This application is therefore acceptable in terms of the AJSP.

## East Ayrshire Local Plan

As is stated under the Ayrshire Joint Structure Plan above, the principle of housing development at this location has already been established by outline consent. The proposals need to be assessed against the following policies;

Policy ENV 1 states that the Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological sites and landscapes.

***Rowallan Estate contains both 'A' and 'B' listed buildings as well as a scheduled monument. The areas of housing are located some distance from these buildings and are separated by areas of woodland therefore protecting the setting of the listed buildings.***

Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, that development proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

***As stated under Policy ENV 1 above, it is considered that there is no detrimental impact on any of the listed buildings within Rowallan Estate. No views from the listed properties will be significantly altered or obscured by the new housing development.***

Policy ENV5 states that the Council will seek to protect, preserve and enhance Historic Gardens and Designed Landscapes. In instances where a proposed development affects an Historic Garden or Designed Landscape, a landscape management plan will require to be submitted as an integral part of any outline planning applications for proposals affecting Historic Gardens and Designed Landscapes will not be accepted by the Council.

***The landscape management plan has been submitted by the applicant, previously. This demonstrates by the applicant that the Rowallan Estate Garden and Designed Landscape will suffer no significant detrimental impact as a result of the housing development.***

Policy ENV7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. The policy also states that developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

***The house designs are innovative as well as incorporating traditional features and materials. The house design and materials will help blend the properties into the setting and landscape of Rowallan Estate.***

Policy ENV 10 states that the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved by five stated means. One of these is pertinent to the application as follows:

(iii) development likely to adversely affect local nature reserves and provisional wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded whenever possible. Where development is approved for such sites, appropriate measures should be taken to conserve and manage, as far as possible, the sites' biological or geological interest and to provide for replacement habitats or features where damage is unavoidable;

***The Scottish Wildlife Trust have raised no objections, asking only that the presence be checked. Therefore it is unlikely the wildlife issues will be detrimentally affected by the proposed housing development.***

Policy ENV15 states that the Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire. In particular, the Council will:

(i) strongly encourage the protection and positive management of remaining areas of ancient and semi-natural woodland. The retention and positive management of existing hedgerows and any proposals for new hedgerow planting will be supported;

***A tree management plan has been submitted as part of the consideration of the earlier reserved matters application for the golf course. This aims to utilise the replanting to mitigate any adverse affect from either the golf course or the housing.***

The site also comprises a miscellaneous development opportunity, 193m, identified in the adopted local plan for the potential retail or commercial usage of the site.

***The housing proposal here was granted at outline stage to enable the commercial redevelopment if the site namely the hotel and golf course. Therefore, the approval of that housing is in line with the aims of this development opportunity.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses the representations received the relevant planning history and the impact on the amenity of the area.

### Consultation Responses

6.2 Although the original proposed resulted in a number of consultees objecting to the proposal, the latest revised layout has resulted in no objects from the consultees. Any concerns they have raised can be dealt with through the imposition of planning conditions and notes.

### Representations

6.3 The objections received have been covered in section 4 of the report and although revising a number of planning issues, it is considered that the latest layout will result in an acceptable form of housing within the estate, which will not significantly affect its character. None of the objections considered to be of sufficient weight to justify refusal of the application.

### Impact on the amenity of the area

6.4 It is considered that the proposal housing layout and associated works will result in a development that will not significantly affect the amenity of any neighbouring properties. The proposal also will respect the setting of the listed buildings and the designed landscape within the site.

### Planning History

6.5 Planning application 06/1010/FL and listed building application 06/0941/LB were recommended for approval at the Northern Area Local Planning Committee on 30 March 2007, both applications were referred and responses are awaited from Historic Scotland and the Executive.

6.6 Planning application 04/0543/FL, proposed the removal of the 6 months occupancy condition contained within Condition 5 of planning consent 98/0365/OL, was withdrawn on 09 June 2004.

6.7 Listed Building application 03/0956/LB for proposed alterations to internal fabric and disabled ramp was conditionally approved on 05 February 2004.

6.8 Planning application 03/0946/RM for proposed development of Hotel, Leisure and Golf Course was conditionally approved on 16 April 2004.

6.9 Planning application 98/0365/OL for Conversion of Castle and Estate Buildings to Hotel and Leisure Facilities/erection of fifty (50) houses/Construct Golf Courses/Landscaping and Road improvements, was conditionally approved on 15 March 2001.

6.10 Listed Building Application 97/0787/LB for proposed alterations, extension and change of use of Stable Block and Engine House to ancillary hotel accommodation, was conditionally approved on 01 July 1998.

6.11 Planning Application 97/0876/FL for proposed alterations, extension and change of use of Stable Block and Engine House to ancillary Hotel accommodation, was conditionally approved 01 July 1998.

6.12 Planning Application 97/0706/FL for proposed change of use of existing dwellinghouse to hotel accommodation was conditionally approved on 03 November 1997.

6.13 Listed Building application KL/W/LB/88/225M for alterations to Rowallan and use as golf clubhouse/conference facilities and erection of new hotel was conditionally approved on 17 September 1992.

6.14 Planning application KL/W/FL/88/225L for change of use of Rowallan to Golf Clubhouse, erection of conference centre, hotel and leisure facilities was conditionally approved on 29 April 1992.

6.15 Planning Application KL/W/FL/88/225D proposed change of use from rough grazing and woodland to 18 hole golf course and was conditionally approved on 21 February 1990.

6.16 Listed Building application KL/W/LB/88/225C for proposed extension and alterations at Rowallan Castle was conditionally approved on 24 July 1989.

6.17 Listed Building application KL/W/LB/88/225B for proposed change of use of Castle to residential hotel, involving alterations and change of use of dwellinghouses, outbuildings, stable block and engine house to form timeshare apartments was conditionally approved on 24 March 1989.

6.18 Planning Application KL/W/88/225A for proposed change of use to dwellinghouses, outbuildings, stable block and engine house to form timeshare apartments was conditionally approved on 20 January 1989.

6.19 Planning Application KL/W/88/225 for proposed new leisure complex and timeshare apartments and functions area was conditionally approved on 28 June 1989.

6.20 The planning and Listed Building consents referred to in paragraphs 6.13 to 6.19 of the planning history were deemed by the Council, following legal advice from the Council's Legal Services in February 2000 to all be extant consents. This would mean that as a minimum the consents referred to in paragraphs 6.13 to 6.14 and covering the consents granted in 1992, 1990 and 1989, had all commenced work relative to the proposal and these consents remain live.

6.21 In a letter to the applicant on 19 December 2003, the Council further confirmed that applications 97/0706/FL, 97/0876/FL and 97/0787/LB had all commenced development and this was stated in an earlier letter dated 14 February 2000.

## **FINANCIAL AND LEGAL IMPLICATIONS**

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

## **8. CONCLUSIONS**

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be approved unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the applications however it is considered that these are not of sufficient weight to merit refusal.

## **9. RECOMMENDATION**

9.1 It is recommended that the Planning Application be approved subject to the conditions indicated on the attached sheet, but that decision notice not be issued until the application has been notified to and cleared by the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development, the application will require to be referred to the Parent Planning Committee as that would be a significant departure from Council policy.

Alan Neish

Head of Planning and Economic Development

14 June 2007

(WS/RH)

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of Representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning Application 04/0297/RM
8. Planning Application 04/0543/FL
9. Listed Building Application 03/0956/LB
10. Planning Application 03/0946/RM
11. Planning Application 98/0365/OL
12. Listed Building Application 97/0787/LB
13. Planning Application 97/0876/FL
14. Planning Application 97/0706/FL
15. Listed Building Application KL/W/LB/88/225M
16. Planning Application KL/W/FL/88/225L
17. Planning Application KL/W/FL/88/225D
18. Listed Building Application KL/W/LB/88/225C
19. Listed Building Application KL/W/LB/88/225B
20. Planning Application KL/W/88/225A
21. Planning Application KL/W/88/225
22. Planning Application 06/1010/FL
23. Listed Building Application 06/0941/LB

Anyone wishing to inspect the above papers please contact William Stewart, Principal Planning Officer on 01563 578165.

***Implementation Officer: Dave Morris***

**EAST AYRSHIRE COUNCIL****TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997**Application No: 04/0297/RM

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Site of Proposal: Rowallan Castle estate Kilmaurs

Nature of Proposal: PROPOSED DIRECTION OF 35  
RESIDENTIAL DWELLING HOUSES

Name & Address of Applicant: Charles Church Development LTD  
Persimmon House  
Fulford  
York

Name & Address of Agent: Yeoman Mcallistar  
Waterside Studios  
Coatbridge Avenue  
Edinburgh  
EH12 6AH

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DPOs Reference: BS/RH

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

1. All matters pertaining to the formation of access roads, turning areas and courtyards within the development site shall be completed in accordance with the details submitted by T Lawrie and Partners, Consulting Engineers on 24 January 2007 and 05 February 2007. The approved works shall all be completed prior to the occupation of any of the houses in the last cluster developed.

REASON In the interests of road safety.

2. Notwithstanding the plans hereby approved, the culverts proposed within the development are not agreed and revised water crossing details showing bridges shall be submitted to and agreed in writing with the Planning Authority, prior to any work commencing on site.

REASON In the interests of road safety and the amenity of the site.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order revoking and re-enacting that order, permitted development classes 1 to 6 of Schedule 1 of the said Order are hereby removed in relation to the application site.

REASON In the interests of road safety and the character, appearance and amenity of the surrounding area.

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 in writing. The Sustainable Urban Drainage System shall thereafter be installed on site prior to the occupation of any dwellinghouse.

REASON To ensure adequate drainage is provided.

5. External construction works and deliveries shall take place only between the hours of 08.00am to 6.00pm Monday to Friday and 08.00am to 1.00pm Saturday and at no time on Sundays.

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

6. No demolition, site clearance or building operations shall be commenced until chestnut pale fencing of a height not less than 1.2 metres has been erected around the trees shown on the approved plans as being retained on the site. The fencing shall enclose either:

(a) the area described by the limit of the spread of the branches of the tree;

or

(b) a radius of 5 metres from the trunk of the tree, whichever is the greater.

Such fencing shall be maintained during the course of development, and no storage, site structure, parking or any other operation shall be permitted within the area thereby enclosed.

REASON To ensure the retention of the maximum number of trees on the site and their protection from damage in the interests of visual amenity.

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

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

8. All construction work and delivery traffic shall enter the site via the new access formed with the B751 and there shall be no other vehicular access taken to the development site, without the express written consent of the Planning Authority.

REASON In the interests of road safety.

9. Samples of the materials to be used in the construction of the houses, including the slate roofing, shall be submitted to and agreed in writing with the Planning Authority, prior to any works commencing on site.

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

10. Prior to the commencement of development on site a badger survey/report shall be carried out and be submitted to the Planning Authority for approval. In the event of badgers being present, said report shall include such mitigation measures as considered appropriate. Thereafter said mitigation measures shall be implemented as approved prior to the commencement of development.

REASON In order to ensure that the proposed development does not have a detrimental impact on any potential badger population in the area.

11. Details of the street lighting shall be submitted to and agreed in writing with the Planning Authority, prior to my work commencing on site. Thereafter, the approved lighting shall be installed as each cluster is completed and the entire lighting shall be installed and operational prior to the occupation of the last house on site.

REASON In the interests of road safety and amenity.

12. The phasing of the development of each housing cluster shall allow that the development on the next cluster shall only commence once up to 80% of the preceding housing cluster has been completed. The landscaping shall be completed in the next available planting season following completion of up to 80% of the housing within the related housing cluster.

REASON In the interests of the amenity of the area.

13. The housing roads within the site shall be a maximum of 4.8m in width and shall be completed in accordance with the details agreed under Condition 1 above.

REASON In the interests of road safety.

14. Details of all factoring arrangements within the development shall be submitted to and agreed in writing with the Planning Authority, prior to any work commencing on site.

REASON: To ensure the proper future maintenance and management of the site.

#### NOTES TO APPLICANT

1. The developer is advised to contact Scotland Gas Networks, 95 Kilbirnie Street, Glasgow (0141 419 4093) to discuss safe operating practices due to the presence of High Pressure apparatus in the vicinity.
2. The developer is advised to contact Scottish Water, Clyde House, 419 Balmore Road, Glasgow G22 6NU to discuss development close to the existing public water main and the need for a separate application/s to connect to the public water network.
3. The developer is advised to contact SEPA's Ayr Team on 01292 294 000 at his/her earliest convenience in order to agree effluent disposal arrangements and consenting issues for this development.
4. The developer should consult the Council's Roads and Transportation Division prior to any work commencing on site to discuss the need for a Road Construction Consent, a road bond and the establishment of the speed limit within the site.

**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.**