

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 26 NOVEMBER 2004**

**04/0789/FL: PROPOSED CHANGE OF USE FROM LEISURE CENTRE TO  
TEMPORARY OFFICE ACCOMMODATION  
AT MOSCOW LEISURE CENTRE FENWICK  
BY AJ CLARK CONSTRUCTION LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Planning permission is sought for a temporary change of use of the premises from a leisure facility to office accommodation (Class 4 of the Town and Country Planning (Scotland) Use Classes Order) for a period of approximately 12 months.

1.2 The developer has indicated that they have gained planning consent for the erection of new office/storage facility for their own use at Rowallan Business Park Kilmarnock, therefore this accommodation is a temporary arrangement until said development is completed. The premises would be used by 12 people on a daily basis.

#### **2. RECOMMENDATION**

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

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report the application is considered not to accord with the terms of the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan. Therefore given the terms of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 It is considered that, due to the temporary nature of the application and the minimal detrimental impact that the proposed development will have on the regional and localised amenity, temporary approval for the proposal should be granted. In order to allow for any slippage in the construction of the applicant's new premises at Rowallan Business Park, a temporary consent of 18 months would be appropriate.

## **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning, Development and Building Standards Division, the application will not require to be referred to the Development Services Committee as this would not be a significant departure from 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 in accordance with the Scheme of Delegation as it is a change of use which does not accord with the Development Plan.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is the vacant former leisure centre building and associated car park to the west of Moscow village. The building is a single storey pitched roof structure which has car parking to both the east and west of the building.

2.2 **Proposed Development:** Planning permission is sought for a temporary change of use of the premises from a leisure facility to office accommodation (Class 4 of the Town and Country Planning (Scotland) Use Classes Order) for a period of approximately 12 months.

2.3 The developer has indicated that they have gained planning consent for the erection of new office/storage facility for their own use at Rowallan Business Park Kilmarnock, therefore this accommodation is a temporary arrangement until said development is completed. The premises would be used by 12 people on a daily basis.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have confirmed that they have no objections to the application

***Noted.***

3.2 Moscow & Waterside Community Council have made no comment on the application.

***Noted.***

#### **4. REPRESENTATIONS**

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

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

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that 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

5.2 Policy W6 of the Ayrshire Joint Structure Plan indicates that Councils should look to promote business in rural areas. However Policy G5 of the Ayrshire Joint Structure Plan clarifies that development proposals outwith settlements in the Rural Protection Areas would only conform with Structure Plan if the development met the following criteria.

A) It has a demonstrated site specific locational need.

***It is considered that the applicant has not demonstrated a specific locational need for the development.***

B) Can be justified in terms of social and economic benefit to the community.

***It is considered that the development would not be of significant economic benefit to the community.***

C) Contributes to rural land diversification.

***It is considered that the development would not contribute to rural land diversification.***

D) Provides for the operational needs of agriculture and forestry.

***It is considered that the development will not contribute to the operational needs of agriculture or forestry.***

With regard to the requirements of the East Ayrshire Local Plan Policies IND 6 and IND 10 are applicable.

5.3 IND6 of the East Ayrshire Local Plan indicates that all proposals for new industrial or business development on land not specifically identified for such purposes on the Local Plan maps and changes of use of existing premises to industrial or business use, will require to be justified against all of the following criteria:

(i) Locational need;

***It is considered that the applicant has not demonstrated a specific locational need for the development.***

(ii) Availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;

***The developer has indicated that due to their short term need for premises they have been unable to identify appropriate accommodation within the localised area.***

(iii) Economic benefit;

***It is considered that the development would not be of significant economic benefit to the community.***

(iv) Impact on surrounding environment and adjacent uses;

***It is considered that the proposed development will not have an adverse impact on the surrounding environment or adjacent uses.***

(v) Transportation and infrastructure implications;

***The Council's Roads Division have no objection to the proposal.***

(vi) Loss of public amenity open space;

***The proposal does not involve the loss of any public open space.***

(vii) Loss of prime quality and good quality locally important agricultural land falling within categories 1, 2, 3.1 and 3.2 of the Macauley Land Use Research Institute; and

***The proposal does not involve the loss of any agricultural land.***

(viii) Impact on natural and built heritage resources

***The proposal does not effect any natural or built heritage.***

5.4 Policy IND 10 of the East Ayrshire Local Plan relates to Industrial and Business development outwith settlement boundaries. It indicates that these will be acceptable to the Council only where the proposal relates to:-

- (i) Category 1 and 2 business and industrial sites and those Miscellaneous Development Opportunity sites with potential for industrial or business development, as indicated on the Local Plan Rural Area Map;
- (ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;
- (iii) Sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;
- (iv) Rail freight based industrial uses at existing coal disposal points; or
- (v) Sensitive industrial and business developments with a clearly demonstrated site specific locational need located within the Rural Diversification Area.

***The Proposal does not fall into any of the above categories and therefore fails to accord with Policy IND 10 of the East Ayrshire Council.***

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

6.1 The material considerations relevant to the consideration of this application are the consultation responses, the impact of the proposal on the amenity of the area and the planning history.

6.2 The consultation responses are detailed in Section 3 of the report and are considered to be supportive of the application.

6.3 It is considered that the proposed temporary change of use of the building to Class 4 office accommodation will not have an adverse effect on the environmental and residential amenity of the area.

## Planning History

6.4 Planning permission was granted on 13 November 1998 (Ref No 98/0591/FL) for the change of use of the former primary school to a community/leisure centre with car parking and a full-sized football pitch with four 5-a-side pitches at the former Moscow Primary School, Grougar, Moscow following the sale of the former Primary School by the Council.

6.5 Planning permission was subsequently refused following the closure of the Leisure Centre on 14 August 2003 (Ref No 03/0023/FL) for the proposed change of use from leisure centre, extensions and alterations to form 6 number dwellinghouses at Moscow Leisure Centre, Grougar, Moscow on the ground that 'Notwithstanding the closure of the premises in November 2002, there remains a reasonable probability that the existing use could be continued on site and accordingly the loss of the community facility would be to the detriment of the amenity of the village of Moscow'.

6.6 Planning permission (03/1054/FL) was thereafter approved on 19 March 2004 for the change of use of the former leisure centre and alterations and extension to form six dwelling houses. The decision was only issued on 28 August 2004 on the completion of a section 75 Agreement between the Applicant and the Council securing the transfer of funds to the Council amounting to 5% of the net sale proceeds of the former leisure centre, said funds to be paid to the Council on the sale of the leisure centre and to be held by the Council pending identification of a community project to provide a replacement Community Hall

6.7 As indicated, the funds due in terms of the Section 75 Agreement fall to be paid on the sale of the leisure centre. The obligations contained within the Agreement will require to be discharged by the parties to the Agreement notwithstanding the determination of, and any decision reached on, the office application now before Committee. A separate Minute of Agreement between the Moscow and Waterside Community Council and the applicant at the time of grant of Planning Permission (03/1054/FL) addressed the separate transfer of land at the rear of the former leisure centre to the Community Council extending to some 8780 square metres and having an agreed value of £4000. It is understood that the leisure centre has now been sold and that the land transfer to the Community Council is very nearly concluded. It is anticipated that payment of the sums due in terms of the Section 75 Agreement and the discharge of that Agreement will be concluded imminently.

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

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

7.2 The provision of alternative Community facilities is already protected in terms of the existing section 75 Agreement between the Council and the

applicant entered into in connection with the grant of Planning Permission (03/1054/FL) and the separate agreement entered into between the then applicant and the Community Council in respect of the agreed land transfer. Given the legal remedies available and the separation of the decision issued in respect of the "6 dwellings" proposal from the determination of the current application, it is now appropriate to determine this office accommodation proposal.

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report the application is considered not to accord with the terms of the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan. Therefore given the terms of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 It is considered that, due to the temporary nature of the application and the minimal detrimental impact that the proposed development will have on the regional and localised amenity, temporary approval for the proposal should be granted. In order to allow for any slippage in the construction of the applicant's new premises at Rowallan Business Park, a temporary consent of 18 months would be appropriate.

## **9. RECOMMENDATION**

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

## **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning, Development and Building Standards Division, the application will not require to be referred to the Development Services Committee as this would not be a significant departure from policy.

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

17 November 2004  
(CSI/MMM/SA)  
FV-DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notes/Certificates.
3. Consultations.
4. Approved Ayrshire Joint Structure Plan.
5. Adopted East Ayrshire Local Plan.
6. Previous application EAC ref 03/ 0628/ FL.

Anyone wishing to inspect the above papers please contact Craig Iles on 01563 576772.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0789/FL

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Site of Proposal:	Moscow Leisure Centre Moscow KILMARNOCK KA4 8PW
Nature of Proposal:	Proposed Change of Use from Leisure Centre to Office Accommodation
Name & Address of Applicant:	A J Clark Construction Ltd Clark House High Glencairn Street KILMARNOCK KA1 4AB
Name & Address of Agent:	G B Fitzsimon WP Third Floor 26B Renfield Street GLASGOW G2 1LU

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DPOs Reference: CSI/MMM/SA

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

1. Permission is granted for a limited period of 18 months from the date hereof, and the use shall be discontinued and the building and land restored to its former condition in accordance with a scheme to be agreed by the Planning Authority, at the expiration of this period unless a further permission is granted.

REASON To enable the Planning Authority to review the situation against the provisions of the Adopted Local Plan and the impact of the use over the temporary period.

2. The consent hereby granted relates to the use of the premises being for purposes defined within Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and not for any other purpose authorised by the provisions of that Order.

REASON To enable the Planning Authority to retain control over the future use of the site in the interests of visual and residential amenity.

3. No storage of materials or articles shall take place on the premises outside a building.

REASON To safeguard the amenity of the area.

**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.**