

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 28 OCTOBER 2005

**05/0565/FL: PROPOSED DEVELOPMENT TO FORM ELEVEN RESIDENTIAL
FLATS
AT 6-8 BROWN STREET, STEWARTON, KA3 5AW
BY LPM LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought for the erection of a two and half storey flatted development comprising eleven flats. The building is formed in a T-shape with part of the building fronting onto Brown Street and a two and half storey wing located to the rear. Pitched roofed dormers provide accommodation within the roof space of the building. It is proposed to finish the building in wet dash render with smooth cement banding around window openings, artificial slate style roofing tiles and sash and case appearance windows. Vehicular and pedestrian access to the rear of the building is provided via a pend access from Brown Street. Eleven parking spaces and bin storage/ collection points are provided within the site. The applicants have advised that they are willing to contribute towards the Council's Sports, Leisure and Recreation Fund to be secured by an appropriate legal agreement.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraphs 6.5 and 7.1 of the report.

3. CONCLUSIONS

3.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan and therefore should be approved unless material considerations indicate otherwise.

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

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, and should such a decision be based on the principle alone of residential development, the application will require to be referred to the Development Services Committee because such a decision would 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 fact that the application is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The development site is located on the site of a former public house at 6-8 Brown Street, Stewarton. The public house has been vacant since January 2004. The site is accessed from Brown Street and covers an area of 0.10 hectares. The land that surrounds the site is occupied by a mixture of small scale retail units and residential properties, with the exception of the vacant former Q8 garage site on the opposite side of Brown Street.

2.2 **Proposed Development:** Planning permission is sought for the erection of a two and half storey flatted development comprising eleven flats. The building is formed in a T-shape with part of the building fronting onto Brown Street and a two and half storey wing located to the rear. Pitched roofed dormers provide accommodation within the roof space of the building. It is proposed to finish the building in wet dash render with smooth cement banding around window openings, artificial slate style roofing tiles and sash and case appearance windows. Vehicular and pedestrian access to the rear of the building is provided via a pend access from Brown Street. Eleven parking spaces and bin storage/ collection points are provided within the site. The applicants have advised that they are willing to contribute towards the Council's Sports, Leisure and Recreation Fund to be secured by an appropriate legal agreement.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objection to the application subject to appropriate roads conditions relating to construction of footway and vehicle access crossing. In addition, the applicant is required to note that the roadworks will require consent under section 56 of the Roads (Scotland) Act.

Appropriately worded conditions and notes can be attached to any grant of planning permission for the proposed development to ensure that the roads issues within the site are addressed.

3.2 Transco have raised no objections in principle to the proposed development.

Noted.

3.3 Scottish Water have no objections subject to conditions pertaining to the developer obtaining permission from Scottish Water to connect to the public wastewater system and/ or water network and the provision of a totally separate drainage system with the surface water discharging to a suitable outlet. Scottish Water comment that they support the principal of a sustainable urban drainage system (SUDS) which the developer should consider utilising in the surface water drainage design.

A note can be attached to any grant of planning consent addressing the matters of service connections and an appropriately worded condition for the drainage arrangements.

3.4 Scottish Environment Protection Agency (SEPA) have no objections providing that all foul drainage for the site is connected to the public sewer, where they would seek written assurances from Scottish Water that the additional flow arising from this development will not cause or contribute to the premature operation of consented storm overflows. It is requested that the applicant treats 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. The development will require to make suitable provision for waste storage in line with the Council's collection plans. Any waste produced during the demolition or construction phases would require to be reused on site or disposed of in accordance with the Waste Management Licensing Regulations 1994 (as amended).

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

Noted.

3.5 West of Scotland Archaeology Service have no objections subject to the imposition of a condition to ensure that any surviving significant remains within the site are preserved by record through archaeological excavation.

An appropriately worded condition can be attached to any grant of planning permission to address this matter.

3.6 Stewarton and District Community Council offer no objections to the proposal however comment that the application is located directly opposite the site of the former Q8 garage which is also the subject of an application for flatted development and therefore concerns are raised that should the developments be simultaneously progressed this could impose disruptions to pedestrian and vehicular movements on Brown Street to the detriment of the daily operations of the businesses and shops in the area.

The concerns of the Community Council are noted, however as detailed in paragraph 3.1 the Council's Roads and Transportation Division have no objections to the application.

3.7 East Ayrshire Council's Cleansing Services have no objections and comment that assuming there is no garden waste (or that it is dealt with by a factoring arrangement) then the total number of bins required for the development would be 22. In addition to the bins a black box is provided for each household for residual paper and cans/ glass or an additional bin.

The applicants have been made aware of the requirements of the Council's Cleansing Service with regards to bin storage and it is considered that the scheme complies with these requirements.

4. REPRESENTATIONS

Two letters of objection have been received in relation to the proposal from the same objector. The grounds for objection are summarised as follows:-

4.1 Inadequate details have been submitted to determine how the building will be connected to the gable of 10 Brown Street which may result in difficulties to maintain the gable of the existing building, may affect the foundations and damp proof membrane of the existing building and will affect the ivy present on the gable.

It is a common feature on infill sites that proposed buildings abut the gable of adjacent buildings. It is noted that the objector has concerns regarding the maintenance of the gable, however any legal access rights for maintenance are a private legal matter between the parties concerned. The developer will require to comply with the Council's Building Standards Division's requirements with regard to obtaining a Building Warrant and Completion Certificate for the development. Any damage to foundations of the building at 10 Brown Street would be a private legal matter between the parties concerned.

4.2 The height of the proposed building will result in a shadow cast in the garden of the property at 10 Brown Street and shall result in an overlooking impact to this property.

The rear elevation of the building at 10 Brown Street is stepped with a single storey rear extension, where the difference in depth between the proposed building and existing building is at its maximum 3.4 metres and at its minimum 1m beyond the furthest part of the rear elevation. Furthermore the applicants amended the proposal to relocate the rear wing of the building further from the boundary of 10 Brown Street to minimise any overshadowing impact imposed and reduced the depth of that part of the building closest to the building at 10 Brown Street by 1.6 metres. Therefore it is considered that any overshadowing impact will not be of such a significant scale to warrant refusal of the application.

4.3 The height difference between the roof ridge/ chimney on the gable of the proposed building and the chimney on the gable of the property at 10 Brown Street shall affect the use of fireplaces within the property at 10 Brown Street.

The matter relating to separation distance for chimney flues is a matter of consideration under the Building Standards Regulations, which the developer will require to comply with in order to obtain the necessary Building Warrant and Completion Certificate for the development.

4.4 There is no consideration given to the gate access from the rear of the property at 10 Brown Street.

Any right of access through the application site for the property at 10 Brown Street is a private legal matter and not a material planning consideration.

4.5 The proposal will reduce the objectors ability to obtain a parking space outside of the property at 10 Brown Street.

As detailed in section 3.1 the parking and access arrangements for the development comply with the requirements of the Council's Roads and Transportation Division.

4.6 The location of the bin store in proximity to the garden wall of 10 Brown Street and the impact imposed from approximately 33 bins 15 feet from the rear of the property.

A bin store for twenty bins is proposed adjacent to the rear boundary of 10 Brown Street. Bins are a requirement for any residential and commercial development and would have been required for the previous public house on the site, therefore it is considered that no significant new impact will arise.

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 related to the assessment of this application.

East Ayrshire Local Plan

5.3 Policy RTC11 encourages and supports the reuse of vacant properties formerly in Schedule 5 use and the redevelopment of gap or infill sites within town centres for appropriate similar Schedule 5 uses. The re-use of such properties or the redevelopment of the land to an appropriate residential or other alternative use not included in Schedule 5 will be acceptable only where two stated criteria can be met, as follows:

- i) it can be demonstrated, to the satisfaction of the Council, that an appropriate use falling within the Classes described in Schedule 5 cannot be found; and

The applicant has demonstrated under the Outline application (05/0265/OL) that an appropriate Schedule 5 use could not be found for the site, when they submitted documentary evidence to demonstrate that no purchasers could be found for the public house.

- ii) the proposed use of the property is sympathetic to the character and amenity of the area concerned.

Housing use at this location is considered to be sympathetic to the character and amenity of the area.

5.4 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;

It is considered that the principle of housing at this location would have minimal impact on the surrounding natural and built environment.

- (ii) transportation and infrastructure implications;

The consultees do not raise any significant transport or infrastructure issues for the development.

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

The adjacent properties on Brown Street are predominantly two storeys in height. The proposed development is proposed with two and half storeys with accommodation provided in the roofspace by the formation of dormer windows and velux rooflights. There is a difference in roof ridge heights presently on the buildings on Brown Street and it is considered that the 1.5 metre height difference between the proposed building and the adjacent properties on Brown Street will have a minimal impact on the streetscape. It is considered that the proposed building is generally compatible with its surroundings.

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

The design of the proposal has been amended to incorporate a scheme that reflects the style of the surrounding buildings within the adjacent Conservation Area. It is considered that the proposal represents the sympathetic and successful redevelopment of this site that presently detracts from the character of the Conservation Area.

5.5 The applicant has been requested to confirm a contribution to the Leisure and Recreation Fund under Policy TLR5 of the Adopted East Ayrshire Local Plan.

The applicants have agreed, under the Outline application, to make a contribution to the TLR5 Fund at the requested level of 1% of construction costs.

5.6 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.

Whilst the proposal fails to meet with the Council's private open space standards, it is considered that an exception to the standards can be made in this case, as the site is brownfield and close to the town centre.

5.7 Policy ENV4 states that the Council will seek 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, size, scale, design, siting, materials and colour of finish. Wherever possible, all 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.

The application site is located outwith, but adjacent to the boundary of the Stewarton Conservation Area. The applicants have amended the proposal to reflect the positioning of the building adjacent to the Conservation Area; chimneys and skews have been inserted, amendments to the window proportions and materials are proposed. It is considered that the design is compatible with the adjacent Conservation Area and the scheme represents a sympathetic redevelopment of a site that currently detracts from the Conservation Area in its present state.

5.8 In conclusion it is considered that the proposal is in accordance with the provisions of the Development Plan.

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 planning history of the site and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

Representations

6.3 The objections received have been summarised in Section 4 of the Report and are not considered to be of such weight as to merit refusal of the application.

Impact on the amenity of the area

6.4 The proposed residential use for the site is considered sympathetic to the character and amenity of this area as detailed, with no detriment to the area.

Planning History

6.5 Outline Planning application (05/0265/OL) was considered by the Northern Area Local Planning Committee on 10 June 2005 and it was agreed to grant outline consent with the applicant entering into a Legal Agreement with the Council for the contribution in terms of Policy TLR5. That Agreement and that consent have not yet been issued. The terms of the draft Agreement already produced can be revised to accommodate the detailed application now before the Committee.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 The applicant has agreed to enter into a Legal Agreement with the Council with regard to a contribution in terms of Policy TLR5.

8. CONCLUSIONS

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan and therefore should be approved unless material considerations indicate otherwise.

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

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraphs 6.5 and 7.1 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, and should such a decision be based on the principle alone of residential development, the application will require to be referred to the Development Services Committee because such a decision would represent a substantial departure from Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

19 October 2005
(CSI/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Letters of Representation.
3. Consultation Responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Outline Planning Application (05/0265/OL)

Anyone wishing to inspect the above papers please contact Gillian Craig, Senior Planning Officer on 01563 576769.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0565/FL

Site of Proposal: 6-8 Brown Street
Stewarton
KILMARNOCK KA3 5AW

Nature of Proposal: Proposed Development to Form Eleven
Residential Flats.

Name & Address of Applicant: LPM Ltd
7 The Paddock
Perceton
IRVINE KA11 2AZ

Name & Address of Agent: MGP Architects
Cathcart House
20 Cathcart Street
AYR KA7 1BJ

DPOs Reference: CSI/RH

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

1. External construction work shall only operate on Mondays to Fridays between the hours of 8am and 6pm, on Saturdays between the hours of 8am and 1pm and not at all on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

2. The vehicular access crossing into the car park shall be constructed to an adoptable road standard prior to the occupation of the first flat.

REASON In the interests of road safety.

3. The existing public footway over the frontage of the development shall be reconstructed to an adoptable road standard prior to occupation of the first flat.

REASON In the interests of road safety.

4. No development shall take place within the development site as outlined 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 allow any surveying of significant remains within the site to be preserved by record through archaeological excavation.

5. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban Drainage System shall thereafter be installed on site prior to the occupation of the flats.

REASON To ensure adequate drainage is provided for the site.

6. Notwithstanding the approved drawings, details and samples of all proposed external materials for the building and bin stores shall be submitted, in writing, to and approved by the Planning Authority prior to the commencement of the development, and thereafter implemented as approved.

REASON In the interest of visual amenity.

7. Notwithstanding the plans hereby approved details of the window openings, including method of opening and colour shall be submitted to and approved in writing by the Planning Authority prior to the commencement of the development, and thereafter implemented as approved.

REASON In the interest of visual amenity.

8. A landscaping scheme shall be submitted to and approved by the Planning Authority prior to commencement of any development, and shall be implemented at the first appropriate planting season after the habitation of the first flat. The scheme shall include details of the provision to be made for the maintenance of the soft and hard landscaped areas and shall be maintained thereafter in accordance with these details.

REASON To ensure that the landscaping for the development is provided to an adequate standard and that it is subsequently maintained, in the interest of residential and visual amenity.

NOTES TO APPLICANT

1. The applicant should make early contact with Scottish Water Planning and Development Services (419 Balmore Road, Glasgow, G22 6NU, Tel 0845 601 8855) to discuss permission to connect to the public wastewater system and/ or water network and to determine whether the existing water supply may need upgrading in view of the alterations proposed in this application.
2. Where a pond or gap between buildings form part of the access then the ability to see pedestrians from vehicles exiting the access must be considered.
3. The applicant should contact Scottish Power (St Vincent Crescent, Glasgow, G3 8LT, Tel: 0141 567 4155) with regard to alteration or protection of apparatus within or adjacent to the site.
4. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
5. 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.
6. The developer shall make early contact with Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
7. The developer shall make contact with Scotland Gas Networks (95 Kilbirnie Street, Glasgow, G5 8JD, Tel: 0800 111 999) with regards to excavation works on or near to a gas main.

8. The roadworks will require consent under section 56 of the Roads (Scotland) Act to ensure the works are undertaken to the required specification and in a safe manner.

**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.**