

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 28 OCTOBER 2005

**05/0681/FL: ERECTION OF RESIDENTIAL DEVELOPMENT COMPRISING 11
FLATS**

**AT FORMER Q8 PETROL FILLING STATION, RIGG STREET/ BROWN
STREET, STEWARTON, KA3 5AQ
BY ROCKWOOD HOMES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Planning permission is sought for the demolition of the garage/ petrol filling station and erection of a residential flatted development comprising eleven flats. The demolition works are retrospective. The proposed building is formed to wrap around the corner at Brown Street/ Rigg Street, where part of the building is formed over two storeys on Brown Street and rises to three storeys at the corner of Brown Street onto Rigg Street. It is proposed to finish the building in render and concrete roofing tiles. Vehicular and pedestrian access is provided to the rear of the building via 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 3.6 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, the application will not require to be referred to the Development Services Committee because such a decision would not represent a substantial departure from Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

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

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Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation, due to the fact that the application is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The development site is located on the site of a former petrol filling station that occupies a corner site on Brown Street/ Rigg Street, Stewarton. 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 to the east, residential properties to the north west and south east commercial premises to the west and the vacant public house on the opposite side of Brown Street.

2.2 **Proposed Development:** Planning permission is sought for the demolition of the garage/ petrol filling station and erection of a residential flatted development comprising eleven flats. The demolition works have been undertaken, but did not require to be the subject of a planning application. The proposed building is formed to wrap around the corner at Brown Street/ Rigg Street, where part of the building is formed over two storeys on Brown Street and rises to three storeys at the corner of Brown Street onto Rigg Street. It is proposed to finish the building in render and concrete roofing tiles. Vehicular and pedestrian access is provided to the rear of the building 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 vehicles 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 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 East Ayrshire Council's Environmental Health, Licensing & Community Safety Division have commented that there is a need for a full ground survey of this site and have advised that the standard contamination land suspensive conditions should be applied to any grant of planning permission.

Appropriately worded conditions can be attached to any grant of planning permission to address these matters.

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

Noted.

3.4 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. In addition they should be contacted by the developer to ascertain whether the existing water supply may need upgrading.

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

3.5 Scottish Environment Protection Agency (SEPA) have no objections provided 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. They comment that previous uses on the site may have resulted in land contamination and expect a risk assessment to be undertaken, however, the Local Authority may determine that these issues

can be adequately addressed through suitable planning conditions. 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. However the design of the drainage system will be site specific and dependent upon the contaminants at the site, the remediation strategy and the risks posed by any residual contamination, in addition to the normal design considerations. 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 notes can be attached to any grant of planning consent to address the matters raised.

3.6 West of Scotland Archaeology Service have no objections to the application.

Noted.

3.7 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 public house on Brown Street, 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.

3.8 Scottish Civic Trust offer no objections to the application however comment that due to the site's proximity to the boundary of the Conservation Area and siting on one of the main routes into the town centre, timber sash and case windows should be used and the roof should not be tiled in the concrete roofing tiles as proposed.

The applicants have amended the proposal and propose UPVc windows with sash and case appearance. Conditions can be imposed requiring samples of the roofing tiles to be submitted for prior approval to ensure that the roofing material is appropriate to the location.

3.9 The Architectural Heritage Society of Scotland comment that the proposed development is generally acceptable and in sympathy with the character of Stewarton and suggest that variation in the uniform use of glazed doors in place of windows on the Brown Street elevation could be an improvement to the scheme.

Noted.

4. REPRESENTATIONS

Four letters of objection have been received in relation to the proposal from five objectors. The grounds for objection are summarised as follows:-

4.1 The height and proximity of the building shall affect the daylight provision and result in an overlooking impact to the rear garden areas of the properties at 4 and 8 Avenue Street and shall affect the daylight provision and natural air into the bathrooms on the gable of the flatted building at 20 Rigg Street.

The applicants have amended the proposal, where the gable of the building is now positioned some 7 metres from the rear garden boundary and some 22 metres from the rear elevation of the property at 4 Avenue Street and some 12 metres from the rear garden boundary and some 22 metres from the rear elevation of the property at 8 Avenue Street. The buildings follow the building line on Brown Street, where they abut the pavement and with the exception of the rear stairwells the buildings are not any deeper than those properties adjacent on Brown Street. Thus it is considered that there is adequate separation and distance between the proposal and the existing properties to prevent any significant new impact in terms of overshadowing or overlooking. It is noted that a distance of 1.2 metres will be retained between the gables of the two buildings and bathrooms are not considered habitable rooms, therefore it is considered that any impact in terms loss of daylight provision is not on a significant scale to warrant refusal of this application. The concern relating to ventilation is a matter for 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.

4.2 Concerns that the construction work will entail a large degree of inconvenience and nuisance.

A condition can be attached to any grant of planning consent restricting the hours of construction to safeguard residential amenity.

4.3 The proximity of the gable wall of the proposed building in relation to the gable of the flatted property at 20 Rigg Street shall have implications for access in relation to carrying out repairs to that property.

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. It is noted that a distance of 1.2 metres will be retained between the gables of the two buildings.

4.4 The impact of the bin store sited immediately adjacent to the property at 20c Rigg Wynd

A bin store for twelve bins is proposed adjacent to the side boundary of 20 Rigg Street. Bins are a requirement for any residential and commercial development therefore it is considered that no significant 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 previous use as a petrol filling station, does not fall within Schedule 5 of the Local Plan and it is considered that residential

development at this site would be the most suitable use given the residential character of the immediate surrounding area. Thus it is not considered necessary for the applicant to demonstrate that a Schedule 5 use could not be found.

- 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 concerned.

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 property on Rigg Street is a three storey flatted block and the adjacent property on Brown Street is two storey in height. It is considered that the density and house types are compatible to its surroundings given that the proposed flats are three storey in height adjacent to the building at Rigg Street and the height is reduced on Brown Street adjacent to the two storey building.

- (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, where the height of the building to Brown Street has been reduced to two storeys in height to reflect the scale of the adjacent building. It is considered that the proposal represents the sympathetic and successful redevelopment of this prominent corner gap site.

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

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.

5.6 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 to make a contribution to the TLR5 Fund at the requested level of 1% of construction costs.

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, where amendments to the window proportions and materials are proposed. It is considered that the design is compatible to 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 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.

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 on the basis of 1% of construction costs.

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 5.6 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, the application will not require to be referred to the Development Services Committee because such a decision would not represent a substantial departure from Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

GC/IMB/RH

FV/DVM
18 October 2005

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).

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

05/0681/FL

Site of Proposal:	Former Q8 Petrol Filling Station, Rigg Street/ Brown Street, Stewarton KILMARNOCK KA3 5AQ
Nature of Proposal:	Demolition of Garage and Erection of Residential Development Comprising 11 Flats.
Name & Address of Applicant:	Rockwood Homes Ltd 38 Dalry Road BEITH KA15 1BA
Name & Address of Agent:	N/A

DPOs Reference: GC/IMB/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 8.00 a.m. and 6.00 p.m., 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 begin on site (with the exception of site investigation works), until a comprehensive contaminated land investigation has been submitted to, and approved in writing by the Planning Authority.

The investigation shall be conducted in line with BS 10175:2001 code of practice for "The investigation of potentially contaminated site" and will contain details of proposals to deal with contamination (if present) to include:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages.
- (iii) Remedial measures to treat/ remove contamination to ensure the site is fit for the use proposed;
- (iv) Measures to deal with unsuspected contamination discovered during construction works.

REASON To ensure potential risks arising from previous site uses have been fully assessed.

5. If the contaminated land investigation works are approved under condition 4, prior to any further site works, the developer shall submit a report, confirming that the remedial works have been carried out in accordance with the remediation plans for the prior written approval of the Planning Authority.

REASON To provide verification that remediation has been carried out in accordance with the remediation plan and to the satisfaction of the Planning Authority.

6. 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.

7. 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.

8. Notwithstanding the plans hereby approved the window and door openings on the elevations to Brown Street and Rigg Street shall be formed with smooth cement bandings, details of which shall be submitted for the written approval of the Planning Authority prior to the commencement of the development, and thereafter implemented as approved.

REASON In the interest of visual amenity.

9. Notwithstanding the plans hereby approved any velux rooflights on the front elevation of the building shall be of 'Conservation' style, details of which shall be submitted for the written approval of the Planning Authority prior to the commencement of the development, and thereafter implemented as approved.

REASON In the interest of visual amenity.

10. 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.

11. 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.

12. Prior to the commencement of the development details of the foul drainage system for the site shall be submitted for the prior written approval of the Planning Authority and thereafter implemented as approved.

REASON To ensure an adequate drainage system for the site and the development will not cause or contribute to the premature operation of consented storm overflows.

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 road-works 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.
9. 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).

**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.**