

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 16 AUGUST 2002**

**01/0219/FL: PROPOSED ERECTION OF 13 NO. DWELLINGS  
AT LAWSON STREET, KILMARNOCK  
FOR KLIN HOMES**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to erect 13 no. dwellings comprising a mix of terraced and semi-detached properties. All properties will be two storey and finished in facing brick with concrete roof tiles. All houses will have two bedrooms and will have vehicular access direct from either Lawson Street or Riverbank Place and all rear gardens will be enclosed by 1.8m timber slatted fencing. Garden sizes vary for each plot ranging from 42 square metres to 100 square metres. The proposal also includes various road alterations within the public road network.

The application has been amended to reduce the number of dwellinghouses from 14 to 13.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.**

**3. CONCLUSIONS**

3.1 As indicated at Section 5 of this report, the application is considered to be contrary to the development plan. Given therefore the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of this report, there are material considerations relevant to this application, however these also indicate that refusal of the application would be appropriate.

3.2 The proposal does not meet the Council's private open space standards which are contained within Policy RES 22 of the EALP. The gardens are for the most part deficient in private open space. Whilst the removal of the industrial building can be justified under the terms of Policy IND 5 of the EALP, it is considered that the replacement scheme is not acceptable in planning terms.

Despite several approaches to the applicant's agent in an attempt to achieve a more acceptable scheme which meets the standards required by Council Policy, the application remains in a form which does not present a suitable level of residential amenity.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control the application will require to be referred to the Development Services Committee as there would be a significant breach of council policy.

**Alan Neish**  
**Head of Planning and Building Control**

**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 Building Control**

#### **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 as it is a development of area significance, is subject to an objection, and is recommended for refusal.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** This application relates to a regular shaped site comprising an existing industrial factory unit located to the south-east of the town centre at Lawson Street, Kilmarnock. The site extends to some 2175 square metres in area. The site is bound to the north east by residential properties, to the south west by other industrial units, to the south east by Riverbank Place beyond which is the River Irvine and to the north west by Lawson Street.

2.2 **Proposed Development:** It is proposed to erect 13 no. dwellings comprising a mix of terraced and semi-detached properties. All properties will be two storey and finished in facing brick with concrete roof tiles. All houses will have two bedrooms and will have vehicular access direct from either Lawson Street or Riverbank Place and all rear gardens will be enclosed by 1.8m timber slatted fencing. Garden sizes vary for each plot ranging from 42 square metres to 100 square metres. The proposal also includes various road alterations within the public road network.

The application has been amended to reduce the number of dwellinghouses from 14 to 13.

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

3.1 Scottish Power, Transco, the Coal Authority East Ayrshire Council Outdoor Services, the Roads and Transportation Division have no adverse comments to make regarding the proposed development.

***Noted***

3.2 The Piersland Bentinck Community Council have not responded to their consultation at the time of writing this report.

***Noted.***

3.3 The Royal Society for the Protection of Birds advise that all birds (herring gulls included), their nests and eggs are protected under the terms of the Wildlife and Countryside Act 1987. It is therefore important that any demolition of a building that is being used by gulls for nesting is undertaken outwith the months of May-August. The RSPB have also forwarded a leaflet entitled "Birds and the Law" for information purposes.

***The demolition of the factory building does not require planning consent and is not included within the description of the proposed development. Therefore the time of year when demolition of the factory takes place is outwith the control of this application. The comments of the RSPB have been passed to the developer for information.***

3.4 Scottish Water advise the following:-

- (i) There is a public sewerage system to which a connection may be made. The developer should satisfy himself, by site investigation if necessary, that relative levels are such as will allow the development to be connected at a reasonable gradient.
- (ii) The developer must make a separate application to Scottish Water for permission to connect to the public sewerage system.
- (iii) A totally separate drainage system will be required.
- (iv) The developer should contact East Ayrshire Roads Division to discuss the required method of taking the surface water outfall pipe through the exiting flood prevention wall.
- (v) A development of the type and size proposed can be serviced from an existing public water main located in the street adjacent to the site location.
- (vi) Separate application will have to be made for the provision of site water mains if required, and service connections. Consultation should be made with this office regarding compliance with current byelaws and use of water for building purposes is advised.

***Notes can be attached to any grant of planning consent to meet Scottish Water requirements.***

3.5 Environmental Health have no objections to the proposed development although offer the following comments:-

- (i) Due to the former nature, age and construction of the existing building, it is possible that it may contain asbestos material. If so, then a suitable site survey will have to be carried out by the applicant in order for safe demolition works to commence;
- (ii) Demolition works should be carried out in accordance with the relevant Code of Practice which shall also entail the production of a method statement concerning the safe handling and disposal of any asbestos materials on site;
- (iii) Any asbestos material on site will be classed as special waste requiring disposal via appropriate consignment note from SEPA to an authorised site.
- (iv) With respect to the demolition and construction phases, it is recommended that any potentially noisy site engineering and other relevant activities are restricted to normal daytime working hours in order to avoid any early morning or evening noise nuisance.
- (v) The objector who is concerned about seagulls and vermin, has been visited by a member of staff. Environmental Health are not aware of any particular rat problem in this area which would significantly affect the proposed demolition works. In respect of the potential seagull problem, it is understood that an open licence is available to property owners to undertake control measures against several of the larger species of gulls (such as those which are in this area). The Council would not become directly involved in any control measures as these would be the responsibility of the developer although it would be a sensible precaution for the developer to be aware of any potential problem in this connection and have a plan of action to deal with it.

***The demolition of the factory building does not form part of this application and does not require planning consent. The comments of Environmental Health have been passed to the developer for their information. A Building Warrant would be required which would have regard to the treatment of asbestos.***

#### **4. REPRESENTATIONS**

4.1 No letters of representation have been received in respect of the proposed development.

#### **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 (1999) and the Adopted Kilmarnock Local Plan, (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the proposal would fall to be considered against Policy 5.4.3. This policy states that there shall be a presumption against the further use of land/premises for non-industrial uses and no such new uses shall be allowed unless ancillary to or associated with industrial, warehouse or service uses in the area. This is in order to ensure that priority is given to maintaining the industrial structure of the area in the interests of improving the employment base of the district.

***The proposed development is for 13 dwellinghouses and therefore does not accord with the above policy or the Adopted Local Plan.***

5.3 There is no conflict between the proposed development and the terms of the Approved Ayrshire Joint Structure Plan.

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

6.1 The other material considerations relevant to the determination of this application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), and consultations received.

##### East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP should be considered as a prime material consideration. Policies IND 5, RES 4, RES 19 and 22 are directly relevant.

6.3 Policy IND 5 safeguards the site for business, industrial and storage and distribution uses. This policy was formulated in order to preserve the existing

industrial provision in the area, broaden the economic base of the area and minimise any adverse impacts of industrial and business developments on surrounding areas.

***The proposal is essentially contrary to the above Policy. The existing building is lying vacant in a deteriorating condition. The site lies at the periphery of the established Glencairn industrial area with a small, recently developed housing estate adjoining its eastern boundary. Although safeguarded for industrial use, the site is not considered as prime quality industrial land and housing would not, in purely land use terms, be incompatible with the surrounding uses.***

***The applicants have submitted a report from the letting agents confirming action undertaken to dispose of the building. The report advises that the marketing strategy chosen was designed to cover the widest range of possible interests in order to stimulate competition to maximise potential sale proceeds. The property schedule was the subject of a mailshot to national agents, development companies, Local Government bodies and all clients on the company database. An advertising board was also placed on the property and the property was also advertised in various media. The property was also placed on the agent's own property register in addition to the Commercial Property Register which is a national circulation of 10,000 companies. As the property fails to meet modern industrial requirements, the only serious interest was for redevelopment for residential purposes. Due to the lack of demand for the continuing industrial use of the existing industrial building and its present detrimental impact on the visual amenity of the area, a housing development on this site, is considered acceptable. Therefore an exception to Policy IND. 5 can be justified in this instance.***

6.4 Policy RES 4 is also applicable if an exception to Policy IND 5 is considered appropriate. Policy RES 4 states that the Council will positively encourage the sympathetic residential development of gap infill or other redevelopment sites not specifically safeguarded or identified for particular development purposes. Development will be assessed against its impact on the surrounding natural and built environment and adjacent uses; transport and infrastructure implications; compatibility with surrounding densities and housing types and compliance with the Council's Development Promotion and Design Guidance.

***The site adjoins an existing modern housing area on its eastern side and is linked on its western boundary with other industrial premises. A housing development similar in quality to the existing adjacent***

***housing would be considered acceptable. The proposal does not therefore conflict with this Policy.***

6.5 Policy RES 22 and Schedule 4 which relate to minimum private garden standards which the Council will require to be met in new residential development. A minimum of 70 square metres is required for a terraced house and 100 square metres for a semi-detached dwellinghouse.

***Of the 13 proposed dwellinghouses only 5 meet the required standard and therefore the proposed development is contrary to the above policy. The provision of minimum private open space standards both secures a satisfactory level of residential amenity and indirectly serves to prevent over-development of the site. With the application in its current form, it is considered that the application site is too small for the type and size of development proposed and fails to achieve an appropriate level of residential amenity. The presence of 6 units having a frontage of only 4.5 metres does not readily facilitate the Council's required garden sizes.***

#### Statutory Consultation Replies

6.7 None of the statutory consultees have raised any negative issues which would materially affect the determination of this application. The issues raised are either generally supportive of the scheme or could be dealt with by the imposition of appropriate conditions, if consent is granted.

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

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

## **8. CONCLUSIONS**

8.1 As indicated at Section 5 of this report, the application is considered to be contrary to the development plan. Given therefore the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of this report, there are material considerations relevant to this application, however these also indicate that refusal of the application would be appropriate.

8.2 The proposal does not meet the Council's private open space standards which are contained within Policy RES 22 of the EALP. The gardens are for the most part deficient in private open space. Whilst the removal of the industrial building can be justified under the terms of Policy IND 5 of the EALP, it is

considered that the replacement scheme is not acceptable in planning terms. Despite several approaches to the applicant's agent in an attempt to achieve a more acceptable scheme which meets the standards required by Council Policy, the application remains in a form which does not present a suitable level of residential amenity.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control the application will require to be referred to the Development Services Committee as there would be a significant breach of council policy.

**Alan Neish**  
**Head of Planning and Building Control**

7/8/02  
(FMF/MMM/IMB)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Forms and Plans.
2. Statutory Certificates.
3. Consultation Responses.
4. Letters of Representations.
5. Kilmarnock Adopted Local Plan.
6. East Ayrshire Local Plan (Finalised Version with Modifications).
7. Approved Strathclyde Structure Plan
8. Approved Ayrshire Joint Structure Plan

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL  
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0219/FL

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Site of Proposal:	Lawson Street KILMARNOCK
Nature of Proposal:	Proposed Erection of 13 No. Two Storey Dwellings
Name & Address of Applicant:	KLIN Homes 27 John Finnie Street KILMARNOCK KA1 1BL
Name & Address of Agent:	BSP Architects 3 Claremont Place GLASGOW G3 7YR

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DPOs Reference: FMF/MMM/IMB

The above FULL application should be refused for the following reasons:-

1. The proposed development is contrary to Policy RES 22 of the East Ayrshire Local Plan Finalised Version with Modifications in that the applicant has not met the minimum private open space standards as detailed in Schedule 4 of the Local Plan. Consequently, the garden space provided is not of a type and size appropriate to the general area within which it is proposed and does not meet the standards required by the Council under the terms of this Policy.
2. The type and number of dwellings proposed exceeds that which can be accommodated within the site whilst maintaining levels of private open space compatible with Council Policy and providing an appropriate level of residential amenity.
3. The proposal constitutes an over-development of the site to the detriment of residential amenity and would set a precedent for further development elsewhere in the immediate vicinity.

**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.**

**AGENDA**