

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 15 MARCH 2002

**01/0559/OL: PROPOSED CLASS 4 OFFICES AND FLATTED
RESIDENTIAL DEVELOPMENT AT HILL STREET/PORTLAND STREET
KILMARNOCK BY KLIN HOLDINGS LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning consent is sought for the erection of Class 4 offices and flatted residential development. An indicative layout has been submitted, showing the erection of a 20,000 sq.ft. office development of 4 storey in height adjacent to Portland Street. Sixty three flats are proposed, with the flats sited within the western end of the site. It is envisaged that the majority of the residential development will be 3-storey in height. A terraced landscaped area is also proposed adjacent to St. Joseph's Church. Access to the site is proposed from Hill Street with a pedestrian access to Portland Street. This present proposal has been amended whereby the closure of Garden Street and the redevelopment of 96-106 Portland Street (the former Weirs Clothing Shop) are no longer included within the application details.

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 under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant in respect of the matters detailed in Section 7.2 of the report.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at Section 5 of the report the proposal is considered to be in accordance with the Adopted Local Plan and the Approved Ayrshire Joint Structure Plan. Therefore given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 As is indicated at Section 6 of the report there are material considerations relevant to this application and they are supportive of the proposal. The proposed development is in accordance with the EALP as residential development and Class 4 offices are considered appropriate on this site. The comments of the consultees regarding the treatment of surface water by Sustainable Urban Drainage Systems and a risk assessment addressing past contamination of the site can be addressed at the detail

consent stage. The present application is proposing the principle of residential development and Class 4 offices on the site. Details of the precise layout, height and numbers of units can be considered at the detailed stage. The proposal will result in the redevelopment of a site which has been derelict for many years, with residential and office development which are considered acceptable in this location. There would be a clear benefit in visual terms and with regard to the vitality of the central part of Kilmarnock .

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control and if that decision was arrived at on the basis of the principle of the development then the application would require to be referred to the Development Services Committee.

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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01/0559/OL: PROPOSED CLASS 4 OFFICES AND FLATTED RESIDENTIAL DEVELOPMENT AT HILL STREET/PORTLAND STREET KILMARNOCK BY KLIN HOLDINGS LTD

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is a larger application which accords with the East Ayrshire Local Plan and is of area significance.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is 1.17 hectares in area and is the site of the former Kilmarnock Infirmary. The site is presently derelict and overgrown, with the last infirmary building, which was listed, being demolished in the late 1990s. The site is surrounded to the north by St. Joseph's Church, a Chinese restaurant, public house and residential flats, to the south by Hill Street and beyond that the railway viaduct, to the west by Hill Street, Kilmarnock Railway Station and the buildings of United Distillers and to the east by Portland Street and a Council car park. The site slopes north west to south east down towards Portland Street.

2.2 **Proposed Development:** Outline planning consent is sought for the erection of Class 4 offices and flatted residential development. An indicative layout has been submitted, showing the erection of a 20,000 sq.ft. office development of 4 storey in height adjacent to Portland Street. Sixty three flats are proposed, with the flats sited within the western end of the site. It is envisaged that the majority of the residential development will be 3-storey in height. A terraced landscaped area is also proposed adjacent to St. Joseph's Church. Access to the site is proposed from Hill Street with a pedestrian access to Portland Street. This present proposal has been amended whereby the closure of Garden Street and the redevelopment of 96-106 Portland Street (the former Weirs Clothing Shop) are no longer included within the application details.

2.3 The applicant has also submitted a Traffic Assessment which addresses roads issues both in relation to this site and a neighbouring development proposed by the applicant and currently under consideration.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have commented that the Traffic Assessment has been satisfactorily undertaken and the recommendation is that the development will not adversely affect the surrounding road network to an extent that will require the developer to undertake external works. They note that the layout is to be taken as indicative only and that the internal layout will be subject to a detailed planning application at which stage the Roads Division will be able to comment more fully. The access road junction on to Hill Street is now being taken directly onto the public road rather than the indirect access through the church car park and the car park can be accessed through the new internal road layout. The Roads Division recommend that the residential users be given the majority of the spaces within the two car parks adjacent to the flats at the rate of 1 no. space per dwelling for residents and 0.25 no. space per dwelling for visitors. The remainder to be allocated for office use. The geometry of the internal road should be designed in accordance with the Roads Development Guide with a suitable turning circle for service vehicles at the end of the road. The Roads Division conclude by commenting that the requirement for a Section 75 Agreement regarding the disposal of road surface water still remains to be addressed.

It is considered that appropriate notes and a condition could be attached to any grant of outline consent regarding utilising a Sustainable Urban Drainage System to treat surface water discharge. The maintenance arrangement of any Sustainable Urban Drainage System can be addressed adequately by details submitted and approved under the terms of a condition attached to any grant of outline planning consent and Section 75 Agreement is not considered necessary in this instance. Details regarding parking levels, access arrangements and the internal site layout can be dealt with at the detailed stage.

3.2 West of Scotland Water Authority have commented that there is a public sewerage system to which a connection may be made. The developer should satisfy himself that relative levels are such as will allow the development to be connected at a reasonable gradient. Their permission should be sought to connect to the public sewerage system and a totally separate drainage system will be required. Sustainable Urban Drainage Systems should be employed on the surface water drainage system. Their comments on drainage requirements can only be general until a more detailed scheme is known.

Notes and a condition can be attached to any grant of outline planning consent advising that the applicant makes early contact with West of Scotland Water and SEPA regarding the treatment of surface water by Sustainable Urban Drainage System and the maintenance of any such system following installation. No

objection has been raised by West of Scotland Water regarding the drainage arrangements for the site.

3.3 Scottish Environment Protection Agency have no objection to the proposed development provided that the foul drainage is connected to the public sewer. They recommend that a condition requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage Systems be attached to any grant of planning consent. The site was previously developed as a hospital. Potentially contaminated activities associated with the hospital may have been undertaken at the site, in particular storage and use of heavy fuel oils for heating system and associated asbestos insulation, laundry and incineration activities. There are no details describing the site history or the site condition. SEPA have a particular interest in pollution of controlled waters arising from any ground contamination at the site. They expect that the Council would require a risk assessment to be undertaken in terms of PAN 33 which should consider whether or not contaminants are entering or are likely to enter controlled waters and at what concentration. The overall objective of the risk assessment should be to determine whether or not any contamination present would constitute pollution of controlled waters so that any required remedial action can be undertaken prior to redevelopment. It is desirable that any investigation and remedial works be sufficient to ensure that site conditions once developed would not constitute contaminated land under Part 11A of the Environmental Protection Act 1990.

The requirements of the Scottish Environment Protection Agency regarding the treatment of surface water in accordance with the principles of Sustainable Urban Drainage and the submission of a risk assessment to address whether or not any contaminants are present and the required remedial action to be undertaken, can be adequately addressed by attaching conditions and notes to any grant of outline planning consent.

3.4 Environmental Health, the Coal Authority , Scottish Power have no objections to the proposed development.

Noted.

3.5 Transco require that no mechanical excavation to be carried out within 500mm of their Plant.

A note can be attached to any grant of planning consent advising the developer of their requirements.

3.6 Ayrshire Joint Structure Plan and Transportation Committee have commented that the proposal is consistent with the objectives of the Structure

Plan which seeks to promote new economic and housing investment within or adjoining the town centre of Kilmarnock.

Noted.

3.7 East Ayrshire Council's Outdoor Amenities Division have no objections to the development. If the site is developed as planned a significant number of trees along Garden Street and Portland Street would need to be removed. There may be sufficient room to retain some of the existing trees but a more detailed plan would be needed. There appears to be sufficient space for some compensatory planting within the new site.

The layout of the proposed development will be dealt with at the detailed stage and matters such as the felling of trees, compensatory planting and landscaping will also be dealt with at that time.

3.8 Bonnyton/Woodstock Community Council, Piersland/Bentinck Community Council, East Ayrshire Council's Economic Development Division have not responded to the consultation letter at the time of writing.

Noted.

4. REPRESENTATIONS RECEIVED

4.1 No letters of representation have been received to 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 Kilmarnock Local Plan the proposal would fall to be considered against Policy 5.2.3 which identifies the former Kilmarnock Infirmary site being suitable for 70 houses. Policy 5.2.12 encourages non-retail commercial development within the town centre outwith the central core area for office development.

The proposed development is in accordance with the above policies. Although the Infirmary site is identified for residential development, the development of the northern end of the site for

office development would not conflict with this policy as the majority of the site would still be developed for housing and Policy 5.2.12 encourages office development within the town centre.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principle material considerations comprise the East Ayrshire Local Plan Finalised Version with Modifications (EALP) and the consultation responses.

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 a more recent policy expression. The application site is identified as a miscellaneous opportunity within the EALP whereby development of appropriate residential, Class 4(i) business or Class 12 Hotel Use is encouraged and supported.

The proposed development is in accordance with the above policy.

6.3 Policy TLR5 states that the Council will request all potential developers of residential sites comprising four or more houses to enter into a Section 75 agreement with the Authority to make a contribution towards the provision of appropriate leisure and recreational facilities within the area to which the development relates. Contributions will be at a level to be agreed by Council based on the expected number of houses and the level of need in a particular area for particular facilities. The Development Services Committee in June 2001 agreed that the contribution would be equivalent to 1% of construction costs.

In terms of this proposal the applicant has agreed that they would be willing to enter into a Section 75 Agreement enabling a contribution of 1% of the construction costs to be made to the Sports Leisure and Recreation Fund pertaining to the area to which the development relates.

Consultation Replies

6.4 The statutory consultation responses are detailed in Section 3 of the report. Their comments can be addressed by attaching conditions to any grant of outline planning consent with such details submitted at the reserved matters stage.

Planning History

6.5 96/0627/LB – Proposed Complete Demolition of Existing Building approved on 25 June 1997.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 Legal implications for the Council would arise from the Council entering into a Section 75 Legal Agreement with the applicant. The Section 75 Agreement would facilitate a contribution amounting to 1% of the construction costs being made into the Sports Leisure and Recreation Fund in order to address identified deficiencies in the area.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of the report the proposal is considered to be in accordance with the Adopted Local Plan and the Approved Ayrshire Joint Structure Plan. Therefore given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated at Section 6 of the report there are material considerations relevant to this application and they are supportive of the proposal. The proposed development is in accordance with the EALP as residential development and Class 4 offices are considered appropriate on this site. The comments of the consultees regarding the treatment of surface water by Sustainable Urban Drainage Systems and a risk assessment addressing past contamination of the site can be addressed at the detail consent stage. The present application is proposing the principle of residential development and Class 4 offices on the site. Details of the precise layout, height and numbers of units can be considered at the detailed stage. The proposal will result in the redevelopment of a site which has been derelict for many years, with residential and office development which are considered acceptable in this location. There would be a clear benefit in visual terms and with regard to the vitality of the central part of Kilmarnock .

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 under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant in respect of the matters detailed in Section 7.2 of the report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control and if that decision was arrived at on the basis of the principle of the development then the application would require to be referred to the Development Services Committee.

Alan Neish
Head of Planning and Building Control

6 March 2002 (PC/SA)
(FV-DVM)

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation responses.
4. Adopted Kilmarnock Local Plan.
5. East Ayrshire Local Plan Finalised Version with Modifications.
6. Approved Ayrshire Joint Structure Plan
7. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers should contact Pamela Clifford on 01563 576772.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0559/OL

Site of Proposal: Hill Street/Portland Street
KILMARNOCK

Nature of Proposal: Proposed Class 4 Offices and Flatted
Residential Development

Name & Address of Applicant: Klin Holdings Ltd
27 John Finnie Street
KILMARNOCK KA1 1BL

Name & Address of Agent:

DPOs Reference: PC/SA

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

(1) The proposed development shall be carried out in accordance with the application form received on 21 August 2001 and the amended plans received by the Planning Authority on 19 February 2002 and 28 February 2002.

REASON To ensure that development is carried out in accordance with the approved details.

(2) Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the undermentioned matters hereby reserved.

- (a) The layout of the site;
- (b) The size, height, design and external appearance of the proposed dwellinghouses/buildings;
- (c) The means of drainage and sewage disposal;
- (d) Details of the access arrangements;
- (e) The provision for open space and associated maintenance arrangements;
- (f) The provision for car parking;
- (g) The boundary walls/fences to be erected;

- (h) The landscaping of the site and associated maintenance arrangements;
- (i) Finished site levels/floor levels.

REASON The approval is in outline only.

(3) The indicative layout plan submitted along with the application is for information purposes only and shall not be treated as forming part of the issued consent.

REASON The approval is in outline only.

(4) The details to be submitted under Condition 2 (a) (b) (e) (f) and (h) shall propose a development whose form and layout shall both respect and use to advantage the physical landform characteristics and topography of the site. The submitted details shall seek to respect the existing topography rather than to impose a development unrelated to the landform.

REASON In the interests of visual amenity and to secure a development which requests the existing site topography.

(5) Prior to the commencement of development on site a Risk Assessment shall be submitted to and approved by the Planning Authority to address whether or not contaminants are entering or are likely to enter controlled waters and at what concentration. Any required remedial action shall be undertaken prior to any construction works commencing on site.

REASON To enable the site to be prepared to a condition suitable for the proposed use in the interests of public safety.

(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. The Sustainable Urban Drainage System shall thereafter be installed on site, prior to the erection of any of the dwellings and the use of any office accommodation.

REASON To ensure that adequate drainage is provided.

(7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 and the Town and Country Planning (Use Classes) (Scotland) Order 1997 and in so far as the permission relates to Class 4 office use, the further express permission of the Planning Authority shall be required in respect of any other use which falls within the same use class to the use hereby approved.

REASON To enable the Planning Authority to retain control over the use of the site in the interests of local planning policies.

(8) The vehicular access to the site shall be taken from Hill Street at the north west corner of the site where access shall be taken directly onto the public road.

REASON In the interests of road safety.

(9) Car parking provisions within the site shall be provided at the rate of 1 no. space per dwelling for residents and 0.25 no spaces per dwelling for visitors.

REASON In the interests of road safety.

NOTES:

(1) No mechanical excavation shall take place within 500mm of Transco Plant.

(2) "The Developer shall make early contact with the Scottish Environment Protection Agency and West of Scotland 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".

(3) "The Council does not currently have a general agreement with WOSWA 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".

**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