

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 17 MAY 2002**

**01/0716/FL: PROPOSED CHANGE OF USE FROM EXISTING STORE TO FORM SINGLE DWELLINGHOUSE (NO. 4), SUB-DIVISION OF GARDENS (NOS. 2, 2-4 & 6), REMOVAL OF OCCUPANCY CONDITION NO. 4 UNDER PLANNING CONSENT 97/0605/FL**

**AT  
2, 4 & 6 NURSERY LANE, KILMARNOCK  
BY MR A WATSON**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The current proposal is threefold:-

(i) It is proposed to form a new dwellinghouse changing the use of the existing industrial store. This building will not be extended although new door and window openings will be formed. A section of the existing building which is flat roofed will be demolished and the resultant external finishes will comprise slate roof, painted wet dash roughcast finish and upvc windows. Internally the dwellinghouse will comprise 3 bedrooms (one with ensuite), living room, bathroom, hallway and kitchen/dining area with utility room. There will be a rear garden area extending to some 89 square metres with two car parking spaces and turning head formed within the curtilage.

(ii) The residential properties of 2-4 Nursery Avenue and 2 Nursery Lane will have their garden ground redefined to provide private space of 100 square metres and 87 square metres respectively. The applicant has also purchased garden ground from 6 Nursery Avenue to provide garden ground.

(iii) The proposal also seeks to revoke Condition No. 4 of an earlier planning permission which granted the dwellinghouse at 2 Nursery Lane. This permission (ref: 97/0605/FL) was granted subject to conditions, one of which stated that:-

*“The office within the house shall be used only for ‘business’ purposes associated with the adjoining store and the house shall be occupied only by an individual (and his/her dependants) who is using the store. Express written permission is to be sought from the Planning Authority before any other use is undertaken”.*

This present application seeks to remove this occupancy condition.

## **2. RECOMMENDATION**

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

## **3. CONCLUSIONS**

3.1 As is indicated in Section 5 of this report, the application is considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 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. The proposal meets the policy requirements of RES 7 regarding the conversion of the store building. The proposal does not however fully comply with the provisions of Policy RES 22, in that the private garden ground requirements are deficient from the Council's quoted standards. The private garden ground levels have been reduced to enable the applicant to meet the requirements of the Roads Division in terms of a turning area and car parking spaces. As detailed in paragraph 6.4 it is considered that an exception to policy is justified in this instance as the proposal would enable the conversion of a building associated with a commercial business to a residential use within a residential area. The removal of Condition No. 4 of Planning Consent No. 97/0605/FL is considered acceptable for if approval is granted for the store to be converted to a dwellinghouse, the terms of the above condition no longer apply.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee because there would be no significant breach of 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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**CENTRAL LOCAL PLANNING COMMITTEE: 17 MAY 2002**

**01/0716/FL: PROPOSED CHANGE OF USE FROM EXISTING STORE TO  
FORM SINGLE DWELLINGHOUSE (NO. 4), SUB-DIVISION OF GARDENS  
(NOS. 2, 2-4 & 6), REMOVAL OF OCCUPANCY CONDITION NO. 4 UNDER  
PLANNING CONSENT 97/0605/FL**

**AT**

**2, 4 & 6 NURSERY LANE, KILMARNOCK  
BY MR A WATSON**

**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 because it is contrary to the East Ayrshire Local Plan Finalised Version with Modifications.

**2. APPLICATION DETAILS**

2.1 **Site Description:** This application relates to three properties at 2, 4 & 6 Nursery Lane which is a large irregularly shaped site located centrally within Kilmarnock just south of London Road. The site comprises the existing residential properties and an existing commercial storage building. The site is bound to the north and east by Nursery Lane, to the south by residential properties and to the west by Nursery Avenue. The site is located within an established residential area and lies just outwith the London Road Outstanding Conservation Area.

2.2 **Proposed Development:** The current proposal is threefold:-

(i) It is proposed to form a new dwellinghouse changing the use of the existing industrial store. This building will not be extended although new door and window openings will be formed. A section of the existing building which is flat roofed will be demolished and the resultant external finishes will comprise slate roof, painted wet dash roughcast finish and upvc windows. Internally the dwellinghouse will comprise 3 bedrooms (one with ensuite), living room, bathroom, hallway and kitchen/dining area with utility room. There will be a rear

garden area extending to some 89 square metres with two car parking spaces and turning head formed within the curtilage.

(ii) The residential properties of 2-4 Nursery Avenue and 2 Nursery Lane will have their garden ground redefined to provide private space of 100 square metres and 87 square metres respectively. The applicant has also purchased garden ground from 6 Nursery Avenue to provide garden ground.

(iii) The proposal also seeks to revoke Condition No. 4 of an earlier planning permission which granted the dwellinghouse at 2 Nursery Lane. This permission (ref: 97/0605/FL) was granted subject to conditions, one of which stated that:-

*“The office within the house shall be used only for ‘business’ purposes associated with the adjoining store and the house shall be occupied only by an individual (and his/her dependants) who is using the store. Express written permission is to be sought from the Planning Authority before any other use is undertaken”.*

This present application seeks to remove this occupancy condition.

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

3.1 The Coal Authority have not identified any instability issues which would affect the determination of this application.

***Noted.***

3.2 Scottish Water have advised that 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. The developer must make a separate application to Scottish Water for permission to connect to the public sewerage system.

***If planning consent is granted an appropriate advisory note can be attached bringing the above comments to the applicant’s attention.***

3.3 Scottish Environment Protection Agency has advised that there are no objections from SEPA’s point of view provided the foul drainage is connected to the public sewer system. Any demolition or waste materials should be removed to a suitably licensed site.

***Noted. An appropriate advisory note can be attached to any grant of planning consent bringing the above comments to the applicants attention.***

3.4 Piersland/Bentinck Community Council has not responded to their consultation at the time of writing this report.

***Noted.***

3.5 East Ayrshire Council Roads and Transportation Division has no objections provided Road Construction Consent is obtained and there is lodgement of an adequate Road Bond.

***An appropriate advisory note can be attached to any grant of planning consent to make the applicant aware of the above requirements. Certain other issues regarding the timing of provision of footpath, car parking and turning facilities can be secured by conditions.***

#### **4. REPRESENTATIONS**

4.1 No letters of representation have been received with regard 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 (2000) 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 this document and its associated policies. The Adopted Local Plan contains design guidance which states that alterations and external finishes to existing buildings shall be compatible with the local architectural character.

***Noted. The alterations to the store are considered to be appropriate and reflect the materials of neighbouring buildings.***

## 6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the East Ayrshire Local Plan Finalised Version with Modifications (EALP), the consultation responses and the impact on the amenity of neighbouring properties.

### East Ayrshire Local Plan Finalised Version with Modifications

6.2 The Council has agreed that the EALP should be considered as a prime material consideration. In terms of the EALP, the application site is located in a residential area within the settlement boundary of Kilmarnock. The relevant Policies are Policy RES 7 and RES 22.

6.3 Policy RES 7 relates to the rehabilitation or the conversion to residential use of existing and traditionally designed and constructed buildings and states that such development will be encouraged where it meets certain criteria:-

- (i) *the structural condition of the building is suitable for its conversion to residential use;*
- (ii) *the proposal is capable of being implemented while retaining to at least eaves level, the existing external walls of the building;*
- (iii) *the development meets the service requirement of all appropriate statutory undertakers and the Council as Roads Authority;*
- (iv) *the proposal is in keeping with the character and appearance of the surrounding area;*
- (v) *the proposal meets all the design requirements of the Council and reflects the style and design of the original building; and*
- (vi) *the proposal does not damage the architectural integrity of the building and re-uses wherever possible any existing traditional materials on site.*

***It is considered that the proposal meets the policy requirements of RES 7. The building as existing is complete and has existing walls and roof. It is not proposed to extend the property and the proposals will not damage the architectural integrity of the building or character of the surrounding area. All external alterations are sympathetic to the design of the existing building and are essentially limited to the formation of new door and window openings. There are no objections from the statutory undertakers and the scheme meets the requirements of the Roads Division.***

6.4 Policy RES 22 is also relevant and states that all developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. In this case for a detached house, the standard is 100 sq m, although land must be useable garden ground and should not include car parking spaces or driveways.

***The private garden ground for the proposed dwelling falls below the quoted standards. In this instance, it is considered that a relaxation would be acceptable owing to the particular circumstances and location of the property. The conversion of the storage building is considered preferable to the existing situation of a plumbers business being located surrounded by residential properties. A business of this type is one which could result in a certain amount of noise, inconvenience and increased activity which would not be compatible with existing residential properties. The Roads Division required 2 car parking spaces and a new turning head within the curtilage of the site. The garden sizes have been reduced in order to meet the requirements of the Roads Division; on balance this trade off is considered appropriate to secure an improvement in the general amenity of the area.***

#### Planning History

##### 6.5 97/0605/FL

Planning consent was granted for the erection of a Dwellinghouse, (2 Nursery Lane). Condition 4 sought to limit occupancy of the new dwelling only to individuals using the adjacent storage buildings; (subject of the current application).

##### 6.6 99/0066/FL

The applicant obtained planning permission to alter and extend the dwellinghouse at 2/4 Nursery Avenue. This was approved on 19 March 1999.

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

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

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of this report, the application is considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 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. The proposal meets the policy requirements of RES 7 regarding the conversion of the store building. The proposal does not however fully comply with the provisions of Policy RES 22, in that the private garden ground requirements are deficient from the Council's quoted standards. The private garden ground levels have been reduced to enable the applicant to meet the requirements of the Roads Division in terms of a turning area and car parking spaces. As detailed in paragraph 6.4 it is considered that an exception to policy is justified in this instance as the proposal would enable the conversion of a building associated with a commercial business to a residential use within a residential area. The removal of Condition No. 4 of Planning Consent No. 97/0605/FL is considered acceptable for if approval is granted for the store to be converted to a dwellinghouse, the terms of the above condition no longer apply.

## **9. RECOMMENDATION**

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

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee because there would be no significant breach of policy.

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

07 May 2002  
(FMF/MMM/SA)  
FV-DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Forms and Plans.
2. Statutory consultations.
3. Approved Ayrshire Joint Structure Plan.
4. Adopted Kilmarnock Local Plan.
5. EALP Finalised Version with Modifications
6. Planning Application 99/0066/FL.
7. Planning Application 97/0605/FL.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576770.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0716/FL

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Site of Proposal: 2, 4 & 6 Nursery Lane  
KILMARNOCK

Nature of Proposal: Proposed Change of Use from Existing Store to Form Single Dwellinghouse (No. 4), Sub-Division of Gardens (Nos. 2, 2-4 & 6), Removal of Occupancy Condition No. 4 under Planning Consent 97/0605/FL

Name & Address of Applicant: Mr A Watson  
2 Nursery lane  
KILMARNOCK KA1 3EG

Name & Address of Agent: W I Munro  
Chartered Architects  
1 Seaford Street  
KILMARNOCK KA1 2BZ

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DPOs Reference: FMF/MMM/SA

The above FULL 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 15 October 2002 and the location plan; plan as existing and proposed ref: 2105W2A; elevations as proposed ref: 2015W4 all received on 15 October 2001 and the amended site plan as proposed ref: 2015W1C received by the Planning Authority on 20 March 2002.

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

2. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any order or enactment replacing this no extensions or garages shall be erected on the site unless a further specific planning application is submitted to and approved by the Planning Authority.

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual and residential amenity of the area.

3. Prior to the commencement of works on site, the external colour of the elevation of the new mews house shall be submitted to and approved by the Planning Authority and thereafter implemented on site as agreed.

REASON In the interests of visual amenity.

4. Notwithstanding the submitted plans details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site and thereafter all fences and walls shall be implemented as approved.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

5. The 2 car parking spaces, the new turning head and 1.2 metre wide footpath along Nursery Lane shall be constructed on site prior to the occupation of the house approved under this consent and maintained thereafter.

REASON In the interests of road safety and residential amenity.

Note:-

1. The Council's Roads and Transportation Division has advised that a Road Construction Consent with a road bond security is required before any building work commences on site. Early contact with the Roads and Transportation Division is recommended at Greenholm Street, Kilmarnock – Tel No: 01563 576310.
2. It is recommended that early contact is made with Scottish Water, 35 Glenburn Road, Prestwick (Tel No: 0808 100 5333) regarding connecting to the public sewerage system.
3. It is recommended that early contact is made with Scottish Environment Protection Agency regarding connection of the foul drainage to the public sewer system. Any demolition or waste materials should be removed to a suitably licensed site.

**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**