



Head of Planning & Economic Development: A Neish DipTP

If phoning or calling, please ask for: **Robert Beaton (01563) 576770**

Our Ref: 10/0922/PP (RDB/RH)

Date: 30 June 2011

Bill Walkinshaw
Head of Democratic Services
Council Headquarters
London Road
Kilmarnock
KA3 7BU

CORPORATE SUPPORT	
- 4 JUL 2011	
	Initials
Act:	
Dealt With:	
Copies to:	

Dear Sir

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008
APPLICATION REF: LRB 10/0922/PP – PROPOSED DEVELOPMENT OF TWO
HOUSES AT LAND ADJACENT TO BARMILL COTTAGE, MAXWOOD
ROAD/CASTLEVIEW, GALSTON**

I refer to your letter received by this Division on 29 June 2011 and understand that the Local Review Body on 20 June 2011 agreed to receive a written submission from the head of Planning and Economic development (a) setting out information on the planning history of the site; and (b) on the view as to the impact of the proposed development on the houses to the west of the application site.

I would respond as follows:

(a) Planning History

05/0199/OL: Outline Residential Development Forming Two Building Plots At Land Fronting Maxwood Road At Castleview Avenue Galston - This application was withdrawn following discussions with the Planning Division on 14/09/2005.

06/1023/OL: Residential Development Forming Two Building Plots At: Land Fronting Maxwood Road/Castleview Avenue, Galston - Northern Local Planning Committee 16 February 2007 agreed to refer the application to the Development Services Committee with a recommendation for approval on the grounds that the application would improve the environmental and visual amenity of the area. (Refer to Committee minute and report enclosed).

EAST AYRSHIRE COUNCIL
PLANNING & ECONOMIC
DEVELOPMENT SERVICE
P O Box, 26191
KILMARNOCK, KA1 9DX
TEL: 01563 576790
FAX: 01563 554592
www.east-ayrshire.gov.uk

06/1023/OL: Residential Development Forming Two Building Plots At: Land Fronting Maxwood Road/Castleview Avenue, Galston - Development Services Committee 6 March 2007 agreed to approve the application on the grounds that the application would improve the environmental and visual amenity of the area; and to remit the Head of Planning, Development and Building Standards to attach appropriate conditions and reasons to the decision notice. (Refer to Committee minute and report enclosed).

10/0922/PP: Proposed Development of Two houses at Land adjacent to Barrmill Cottage Maxwood Road/Castleview Avenue Galston - Refused under delegated powers by the Head of Planning and Economic Development 18/2/2011.

(b) View as to the impact of the development on the houses to the west of the application site.

When approaching the site on Maxwood Road from a south western direction, the house types are generally a mixture of modern single storey detached bungalows and two storey post war semi-detached dwellinghouses. The ridge height of the existing two storey post war dwellinghouses is approximately 7.6 metres. The existing dwellinghouses at the end of Castleview Avenue are 60's semi-detached properties and it is noteworthy that these properties have lower ridge heights and shallower pitched roof design and sit approximately 2 metres lower than the properties on Maxwood Road.

The proposed development site is on the former Galston to Newmilns railway line. The proposed ground level at the building plots has a spot height of approximately 67 metres AOD. The height of the proposed building is 9 metres to the ridge with a steep roof pitch and would dominate this section of Maxwood Road which has a level of approximately 62.8 metres AOD.

The proposed development would result in the closure of the open aspects at the end of Maxwood Road with the dominant bulky two storey dwellinghouse(s) of incompatible design. It is considered that the size and design of the proposed dwellinghouse(s) would dwarf the adjacent properties in Castleview Avenue and Maxwood Road to the west. It is the view of the Planning Authority that single storey or storey and a half dwellinghouse(s) on these plots would be more compatible with the scale and design of the existing streetscape.

I trust that this information is of assistance.

Yours faithfully

Hugh Melvin
ACTING DEVELOPMENT MANAGEMENT MANAGER

EAST AYRSHIRE COUNCIL
PLANNING & ECONOMIC
DEVELOPMENT SERVICE
P O BOX, 26191
KILMARNOCK, KA1 9DX
TEL: 01563 576790
FAX: 01563 554592
www.east-ayrshire.gov.uk

EAST AYRSHIRE COUNCIL

**DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING
COMMITTEE**

**MINUTES OF MEETING HELD TUESDAY 6 MARCH 2007 AT 1400 HOURS IN
THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON ROAD,
KILMARNOCK**

PRESENT: Councillors Eric Ross, Jim O'Neill, Brian Reeves, Douglas Reid, Drew McIntyre, Iain Linton, John Campbell, Stuart Finlayson, Robert McDill, Eric Jackson and Tommy Farrell.

ATTENDING: David Mitchell, Head of Administrative and Legal Services; Alan Neish, Head of Planning, Development and Building Standards; Barry Douglas, Senior Planner; and Robert Beaton, Administrative Officer.

APOLOGIES: Councillors Maureen McKay, John McGhee, Stephanie Young, John Weir, Isabella Macrae, Ray Murray, George Smith, Jimmy Kelly, Elaine Dinwoodie and Jimmy Carmichael.

CHAIR: Councillor Eric Ross, Chair.

CONSIDERATION OF APPLICATIONS

- 1. APPLICATION NO: 06/0686/FL: ERECTION OF 199 RESIDENTIAL UNITS WITH ASSOCIATED LANDSCAPING, OPEN SPACE, ACCESS ARRANGEMENTS AND FLOOD DEFENCE WORKS AT STODDARD CARPET FACTORY, BARBADOES ROAD, KILMARNOCK BY FM DEVELOPMENTS LTD (Item 2, Page 2694, 03/07)**

There was submitted a report dated 23 February 2007 by the Head of Planning, Development and Building Standards advising of the outcome of certain further discussions with the applicant and report dated 29 January 2007 (both circulated) on a full planning application to be considered by the Development Services Committee because it was a larger scale residential development, subject to objections and the Council had an interest in the site, being owner as Roads Authority, of the road network included in the application site.

1.1 Clarification of Members to take Part in the Application

The Head of Administrative and Legal Services clarified that only those Elected Members: Councillors Ross, Reeves, Reid, Linton, Campbell, Finlayson, McDill and Farrell who were involved in the Hearing associated with the application at the meeting held on 7 February 2007 should participate in the determination of the application at this Committee meeting.

1.2 Consideration of Item

The Head of Planning, Development and Building Standards reported that the applicant's transportation engineers had assessed six possible access options and confirmed that a second access was not feasible on the basis of land ownership constraints and issues relating to the flood plain; reported that 78 objections had been received in respect of this application, details of which were contained in the report; in addition, referred to receipt of a 156 signatory petition objecting to the single point of access and supporting the need for a second access; summarised the

planning considerations in respect of the application; and gave the recommendation: Approval, subject to the conditions, and for the reasons, detailed in the report; subject to Notification of Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction; and that the issue of the planning decision notice should be withheld until the Solicitor to the Council had satisfactorily concluded a Section 75 Agreement with the applicant regarding the matters referred to in Section 7.2 of the report.

1.3 Planning Hearing

It was confirmed that a Hearing had previously been held at the meeting on 7 February 2007 and that the Hearing process was concluded in terms of the Hearing Procedure.

1.4 Determination of Application

Councillor Ross, seconded by Councillor Farrell, moved that the application be approved in accordance with the recommendation of the Head of Planning, Development and Building Standards and that the Head of Planning, Development and Building Standards be remitted to negotiate an appropriate contribution to the sports fund by the applicant for the benefit of the area; to review on street parking and traffic calming measures, in consultation with the Head of Roads and Transportation; and to establish a liaison committee to enable local residents to be consulted on the street parking and traffic calming measures.

Councillor Reid, seconded by Councillor Campbell, moved as an amendment refusal of the application as they considered that the applicant should provide a secondary road access to the development as the proposed access road would create significant traffic impact detrimental to the amenity of the existing residents.

On a division by a show of hands, the amendment was carried by 5 votes to 3.

HEARING PROCEDURE

2. The Administrative Officer established that the Hearing Procedure was understood by all participants (circulated).

3. **APPLICATION NO 06/0685/FL: EXTRACTION OF COAL BY OPENCAST METHOD WITH RESTORATION TO FORESTRY AND NATURE CONSERVATION AND RETENTION OF EXISTING SITE INFRASTRUCTURE AT CHALMERSTON OPENCAST COAL SITE, DALMELLINGTON BY THE SCOTTISH COAL COMPANY LTD**

There was submitted an executive summary sheet and report dated 25 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application to be considered by the Development Services Committee under the Scheme of Delegation because it represented an extension of working for an existing opencast site which was generally in accordance with the Opencast Coal Subject Plan and would require to be notified to the Scottish Ministers.

3.1 Consideration of Item

The Head of Planning, Development and Building Standards reported that one letter of objection had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the

recommendation, viz:- Approval, subject to the conditions, and for the reasons as detailed in the report and subject to Notification of Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No 2) Direction 1998; and that the issue of the decision notice should be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1987 with the applicant in respect of the matters detailed in paragraph 8.5 of the report.

3.2 Planning Hearing

The Committee heard Greta Roberts on behalf of MEGA: Mining and Environment Group in support of their objections.

Members of the Committee asked questions of the objector, all in accordance with the agreed Hearing Procedure.

The Committee then heard Philip Rayson, representing the applicant, in support of the application.

The Chair closed the Hearing.

3.3 Determination of Application

It was agreed to approve the application subject to the conditions, and for the reasons as detailed in the report and subject to Notification of Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Amendment (No 2) Direction 1998; and that the issue of the decision notice should be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1987 with the applicant in respect of the matters detailed in paragraph 8.5 of the report.

4. DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 26 JANUARY 2007 RELATING TO PLANNING APPLICATION NO 06/0575/FL: PROPOSED ERECTION OF A DWELLINGHOUSE ON A PLOT OF GROUND ADJACENT TO WINDYEDGE, WATERSIDE, BY PATNA (Item 5, Page 2580, 03/07)

There was submitted a report dated 9 February 2007 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which informed of the decision of the Southern Local Planning Committee held on 26 January 2007 regarding the above planning application and the executive summary sheet and report dated 15 January 2007 (both circulated) by the Head of Planning, Development and Building Standards.

The Head of Planning, Development and Building Standards reported that one letter of objection had been received, details of which were contained within the report; summarised the planning considerations in respect of the application, and gave the recommendation: Refusal, for the reasons detailed within the report.

It was noted that no Hearing took place as the objector was neither present nor represented at the meeting of the Southern Local Planning Committee on 1 December 2006 and that no hearing was held at the meeting of the Southern Local Planning Committee on 26 January 2007. Therefore, there was no requirement for a Hearing at this meeting.

It was agreed to approve the application on the basis that the application represented an acceptable departure from the Development Plan since the design was considered acceptable and subject to the condition that the applicant provide a full turning area to be located within the curtilage of the dwellinghouse: REASON: to enable all vehicles using the single track access road to turn safely; and to remit the Head of Planning, Development and Building Standards to attach appropriate conditions and reasons to the decision notice.

5. DECISION OF THE NORTHERN AREA LOCAL PLANNING COMMITTEE HELD ON 16 FEBRUARY 2007 RELATING TO PLANNING APPLICATION NO 06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING PLOTS AT LAND FRONTING MAXWOOD ROAD, CASTLEVIEW AVENUE, GALSTON (Item 12, Page 2719, 03/07)

There was submitted a report dated 20 February 2007 (circulated) by the Depute Chief Executive/Executive Director of Corporate Support which informed of the decision of the Northern Area Local Planning Committee held on 16 February 2007 regarding the above planning application and the executive summary sheet and report dated 5 February 2007 (both circulated) by the Head of Planning, Development and Building Standards.

The Head of Planning, Development and Building Standards reported that no letters of objection had been received; summarised the planning considerations in respect of the application; and gave the recommendation: Refusal, for the reasons detailed in the report.

It was agreed to approve the application on the grounds that the application would improve the environmental and visual amenity of the area; and to remit the Head of Planning, Development and Building Standards to attach appropriate conditions and reasons to the decision notice.

The meeting terminated at 1446 hours.

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE – 6 MARCH 2007

DECISION OF THE NORTHERN AREA LOCAL PLANNING COMMITTEE HELD ON 16 FEBRUARY 2007 RELATING TO PLANNING APPLICATION NUMBER 06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING PLOTS AT LAND FRONTING MAXWOOD ROAD, CASTLEVIEW AVENUE, GALSTON

Report by the Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1** The purpose of this report is to advise the Committee of the decision of the Northern Area Local Planning Committee held on 16 February 2007 regarding the above planning application.

2. BACKGROUND

- 2.1** The Northern Area Local Planning Committee on 16 February 2007 considered a report dated 5 February 2007 (attached as an Appendix) by the Head of Planning, Development and Building Standards and agreed to refer the application to the Development Services Committee with a recommendation for approval on the grounds that the application would improve the environmental and visual amenity of the area.
- 2.2** No objections were submitted in respect of this application and, therefore, there is no requirement for a Hearing.

3. FINANCIAL/LEGAL IMPLICATIONS - Nil

4. POLICY IMPLICATIONS

- 4.1** The Committee are referred to the report dated 5 February 2007 by the Head of Planning, Development and Building Standards, attached as an Appendix to this report.

5. RECOMMENDATION

- 5.1** It is recommended that the Committee consider the planning application with reference to the report by the Head of Planning, Development and Building Standards dated 5 February 2007 and with consideration to the recommendation of the Northern Area Local Planning Committee as detailed in paragraph 2.1 above.

Elizabeth Morton
Depute Chief Executive/Executive Director of Corporate Support

20 February 2007
CB/KS

LIST OF BACKGROUND PAPERS - NIL

Any person wishing further information on this report should contact Bill Walkinshaw, Administration Manager on Tel No (01563) 576153.

Implementation Officer: Christine Baillie

**EAST AYRSHIRE COUNCIL
NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY
2007**

**06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING
PLOTS
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE,
GALSTON
BY D. LINDSAY**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

1.2 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

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 is indicated in Section 5 of the report the application is not 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 refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved 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.

Alan Neish

Head of Planning, Development and Building Standards Division

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.

EAST AYRSHIRE COUNCIL

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007
06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING
PLOTS
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE
GALSTON
BY D. LINDSAY**

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 an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is contrary to the Development Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The outline planning application site comprises approximately 775 square metres of open ground located in the Rural Protection Area, immediately adjacent to the settlement boundary of Galston.

2.2 The outline application site is bounded to the north by the access road to the properties located at Barr Mill and to the south by the access road to Wallacehills kennels. The application site is bounded to the west by an access road and an area of open space located within the settlement of Galston, and to the east by open space located in the Rural Protection Area.

2.3 **Proposed Development:** The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

2.4 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Galston Community Council has offered no objections to the application.

Noted.

3.2 Scottish Power have made no objection to the proposal.

Noted.

3.3 Scotland Gas Networks have no objection to the proposal.

Noted.

3.4 East Ayrshire Council's Roads and Transportation Division has offered no objection to the proposal but have recommended that the proposed building line for the plots should be set back to allow for the construction of a two metre wide footway over the frontage of the plots. In addition the Roads Division has commented that since the application site does not abut a public road, the existing road would require to be extended over the frontage of the proposed plots.

Should the application be approved, since the proposal is in outline any details relating to roads issues could be dealt with by the future submission of a reserved matters application.

3.5 East Ayrshire Council's Roads and Transportation Division Flooding Section have offered no objection to the proposal. However, the Flooding Section states that the applicant will require to consider the potential surface water flow path from the adjacent road in extreme rainfall events

Noted

4. REPRESENTATIONS

4.1 The application was advertised in the Kilmarnock Standard and no letters of objection have been received in relation to the proposal.

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 (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- A has a site specific locational need
- B can be justified in terms of social and economic benefit to the community
- C contribute to rural land diversification: or
- D provides for the operational needs of agriculture and forestry

The applicant has provided additional information stating that the proposed site is vacant and is unused and once formed part of the Strathaven to Kilmarnock railway line. According to the applicant the site is frequently the depository of persistent fly tipping. In this instance the applicant has not demonstrated a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. In addition, the applicant has not justified the proposal in terms of social and economic benefit to the community nor does the proposal contribute to rural land diversification. Furthermore, the applicant has not demonstrated that the proposed residential plots are required for the operational needs of agriculture or forestry. Consequently the proposal is contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policy RES 13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES 8 above.

The Policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

In addition, the policy enables the Council to request applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information.

The applicant's submitted supporting information does not provide details of a site specific locational need to justify the location of the proposed houses in the Rural Protection Area. Furthermore, the proposed residential plots are not required for full time agricultural or forestry workers employed directly on the land to which the proposal relates. The application is therefore considered to be contrary to policy RES 13 of the East Ayrshire Local Plan.

5.4 Policy SD3 states that within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only where:

- (i) comprises an acceptable form of residential use as detailed in Policy RES 13 of the Local Plan; or

As previously stated the application does not conform with Policy RES 13 of the Local Plan.

- (ii) can be fully justified in terms of site specific locational need; or

The applicant's submitted supporting information has not provided details of a site specific locational need to justify the location of the proposed house in the Rural Protection Area.

- (iii) can be fully justified in terms of social and economic benefit to the community; or

The applicant has not justified the proposal in terms of social or economic benefit to the community.

- (iv) contributes to rural land diversification

It is considered that the proposal does not contribute to rural land diversification.

- (v) provides for the operational needs of agriculture or forestry.

The applicant has not provided evidence to support the proposal in terms of the operational needs of agriculture or forestry.

The proposal does not comply with any of the above mentioned criteria for residential development.

Consequently, the proposal is contrary to Policy SD3 of the Local Plan.

5.5 Policy RES 17 states that residential development in the countryside will not be permitted in nine stated circumstances. Three of those circumstances are pertinent to the application, these being:

(iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries.

It is considered that the proposed residential plots would constitute an inappropriate extension of development into the countryside as Maxwood Road is seen as a strong defensible boundary which should not be breached.

(vi) where the development would, in itself, constitute or add to sporadic or ribboning of development along public or private roads in rural locations.

It is considered that approval of this application would lead to ribboning development along this road in a rural location.

(ix) where the development would not meet the service requirements of the Council as a Roads Authority or the standards of all appropriate statutory undertakers and other service providers.

The Council's Roads and Transportation Division has stated that as the application site does not abut a public road the applicant will require to extend the public road over the frontage of the proposed plots. In addition the Roads Division will require the formation of a two metre wide footpath over the frontage of the proposed plots.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the planning history, the letter of support, impact on amenity and the Ayrshire Joint Structure Plan Finalised Version.

Consultations responses

6.2 It is not considered that any of the consultation responses received indicate that the application should be refused.

Representations received

6.3 No letters of objection have been received in connection with the application.

Planning History

6.4 An outline planning application 05/0199/OL for the formation of two residential plots was withdrawn on 14/09/2005 by the applicant after discussions with this Division.

Letter of Support

6.5 The applicant has provided a letter of support stating that the proposed site once formed part of the Strathaven to Kilmarnock railway line and that the site is currently vacant and is frequently the depository of fly tippers.

In this instance the applicant has not provided details of a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. It is the responsibility of all landowners where fly tipping is problematic, to take measures to remove any dumped materials that cause the site to have an adverse visual impact. Fly tipping is not a justification for approving a dwelling contrary to policy; such an approach would actually be likely to encourage more fly tipping.

6.6 In addition, the applicant considers that the proposed development site is located immediately adjacent to the Galston settlement boundary and that an alteration to the settlement boundary to accommodate the proposal could be undertaken without compromising the Council's ability to retain its policy stance.

It is acknowledged that the proposed application site is located immediately outwith the Galston settlement boundary. However, the proposed site is located within the Rural Protection Area and it is not considered that the supporting information justifies a site specific locational need that would merit approval of the application. In fact the dwelling would constitute an inappropriate extension of development into the countryside.

Impact on Amenity

6.7 Taking into account that the proposal includes the removal of part of the Rural Protection Area at this location it is considered that the proposal would result in a significant detrimental impact on the appearance of the wider area.

Ayrshire Joint Structure Plan Finalised Version

6.8 Policy COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and

clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

6.9 The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential developments in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

The proposed outline application site for residential plots is located in the Rural Protection Area, outwith the settlement of Galston and is therefore considered to be contrary to Policy Comm 5 of the Finalised Version of the Ayrshire Joint Structure Plan. In addition, the proposal does not conform with Policy Comm 5 because the residential plots are not proposed to meet the operational requirements of agriculture or rural business.

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 the report the application is not 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 refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

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 Development and Building Standards it 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, Development and Building Standards

05 February 2007
(JL/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Consultation responses
3. Letter of support
4. Adopted East Ayrshire Local Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Ayrshire Joint Structure Plan Finalised Version
7. Statutory Notices and Certificates
8. Relevant Planning applications:
05/0199/FL

Anyone wishing to inspect the above papers please contact Jane Little,
Planning Officer, on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No. 06/1023/OL

Site of Proposal:	Land fronting Maxwood Road/Castleview Avenue, GALSTON
Nature of Proposal:	Residential Development Forming Two Residential Plots
Name & Address of Applicant:	D. Lindsay 1 Maxwood Holdings Galston KA4 8LZ
Name & Address of Agent	Ross McKay Architects Shalmstry 1 Ardlochan Terrace Maidens Girvan KA26 9NX

DPOs Reference: JL/RH

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

1. The proposed development would be contrary to Policies SD3 and RES 13 of the East Ayrshire Local Plan in that the applicant has not successfully demonstrated a site specific locational need for the proposal.
2. The proposed development is contrary to the requirements of Policy RES 17 of the Adopted East Ayrshire Local Plan in that it proposes residential plots that would constitute an inappropriate extension of development into the countryside.
3. The proposed development would be contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy COMM5 of the Finalised Ayrshire Joint Structure Plan in that the applicant has not demonstrated a site specific locational need for the proposal.

**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.**

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE

**MINUTES OF MEETING HELD ON FRIDAY 16 FEBRUARY 2007 AT
1000 HRS IN THE MEETING ROOM, COUNCIL HEADQUARTERS, LONDON
ROAD, KILMARNOCK**

PRESENT: Councillors Maureen McKay, Jim O'Neill, John McGhee, Stephanie Young, Isabella Macrae, Harry Wilson, Jim Raymond, Stuart Finlayson and Robert McDill.

ATTENDING: Bill Stewart, Principal Planning Officer; Avril Forrest, Solicitor; and Christine Baillie, Administrative Officer

CHAIR: Councillor Maureen McKay, Chair.

ORDER OF BUSINESS

1. The Chair, at her discretion and in terms of Standing Order 19, agreed to alter the order of business to that shown below.

HEARING PROCEDURE

2. The Administrative Officer established that the Hearing Procedure was understood by all participants.

CHAIRS REMARKS

3. It was reported, and noted, that Application No: 06/0619/FL: Erection of Dwellinghouse at East Blackbyres Farm, Waterside by Mr Alan Carey had been withdrawn, at the request of the applicant and that Application No's 05/0694/FL: Proposed change of use and conversion of disused farm buildings to create 4 Residential Units at Chapelton Mains Farm, Stewarton by Mr R Menzies and 06/0202/FL: Alterations to existing house and conversion to existing farm outbuildings to form 3 houses at Bellisle, Hurlford by Mr & Mrs Marshall had been continued to a future meeting.

4. **APPLICATION NO 06/0994/FL: MR MACDONALD: PLOT B, GLENDOUNE HOUSE, MAIN ROAD, CROOKEDHOLM**

There was submitted an executive summary sheet and report dated 6 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for proposed erection of single storey dwellinghouse at Plot B, Glendoune House, Main Road, Crookedholm.

It was noted that Members of the Committee had attended a site visit in respect of this application prior to the meeting.

- 4.1. **Consideration of Item**

The Principal Planning Officer reported that 6 letters of objections had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the

Head of Planning, Development and Building Standards: Refusal for the reason detailed in the report.

4.2. Planning Hearing

The Committee heard Mrs Douglas, Mr Young and Mrs Kyle in respect of their objections.

Members of the Committee asked questions of the objectors in accordance with the Hearing Procedure.

The Committee then heard Mr MacDonald, applicant, in support of the application.

Members of the Committee asked questions of the applicant in accordance with the Hearing Procedure.

The Chair closed the Hearing.

4.3. Determination of Application

It was agreed to refuse the application for the reason detailed in the report.

5. APPLICATION NO 06/1037/FL: MR & MRS MILLER: LAND TO EAST OF A719 HARESHAWMUIR ROAD, WATERSIDE, KILMARNOCK

There was submitted an executive summary sheet and report dated 7 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for siting of caravan, erection of agricultural barn and road improvement works at land to east of A719 Hareshawmuir Road, Waterside, Kilmarnock.

5.1. Consideration of Item

The Principal Planning Officer reported that 11 letters of objections had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Approval subject to the conditions, and for the reasons, detailed in the report.

5.2. Planning Hearing

The Committee heard Dr Connor, Mr Cuthbertson, Mr Kerr in respect of the objections submitted by Mr & Mrs Templeton, Mrs Roberts, Mrs Meikle in respect of the objections submitted by Moscow and Waterside Community Council, Mr Connolly and Mr Campbell in respect of their objections.

Members of the Committee asked questions of the objectors in accordance with the Hearing Procedure.

5.3. Adjournment/ Reconvention of Meeting

It was agreed to adjourn the meeting at 11.20 hours in order that clarification on a roads issue could be obtained. The meeting reconvened at 11.35 hours with the same Members and officers present and in attendance.

Members continued to ask questions of the objectors in accordance with the agreed Hearing Procedure.

The Committee then heard Mr Miller, applicant, in support of the application.

Members of the Committee asked questions of the applicant in accordance with the Hearing Procedure.

The Chair closed the Hearing.

5.4. Determination of Application

It was agreed to continue consideration of the application to a future meeting of this Committee in order to clarify the planning history of the site and the status of the verges on either side of the Hareshawmuir carriageway.

Councillor Finlayson left the meeting during discussion of the above item.

6. APPLICATION NO 06/1111/FL: FLEETPOINT LIMITED: 17 BROWN STREET, NEWMILNS

6.1. Declaration of Interest

Councillor Wilson declared a non-financial interest in this item and left the meeting.

6.2. Consideration of Item

There was submitted an executive summary sheet and report dated 6 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for change of use from store to MOT Garage at 17 Brown Street, Newmilns.

It was noted that Members of the Committee had attended a site visit in respect of this application prior to the meeting.

The Principal Planning Officer reported that 3 letters of objections had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Approval subject to the conditions, and for the reasons, detailed in the report.

6.3. Planning Hearing

The Committee heard Mr Thom and Ms Gracie in respect of their objections.

Members of the Committee asked questions of the objectors in accordance with the Hearing Procedure.

The Committee then heard Mr Niven, applicant in support of the application.

Members of the Committee asked questions of Mr Niven, in accordance with the agreed Hearing Procedure.

The Chair closed the Hearing.

6.4. Determination of Application

It was agreed to approve the application subject to the conditions, and for the reasons, detailed within the report.

Councillor Wilson rejoined the meeting at this point.

7. APPLICATION NO 06/0535/FL: MR A ANGUS: LAND TO THE WEST OF MUIRHEAD OF BALGRAY FARM, NEAR IRVINE

There was submitted an executive summary sheet and report dated 7 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a

full planning application for change of use of land to establish riding centre, erection of stables, office, barn and 6 field shelters, formation of new access, parking and outdoor arena and siting of caravan and container at land to the west of Muirhead of Balgray Farm, Near Irvine.

It was noted that Members of the Committee had attended a site visit in respect of this application prior to the meeting.

7.1 Consideration of Item

The Principal Planning Officer reported that 7 letters of objection, 3 of which were in the form of a standard letter, had been received from 4 parties, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Approval subject to the conditions, and for the reasons, detailed in the report.

7.2 Planning Hearing

The Committee heard Mr Walker, Mr McClurg and Mrs Aste in respect of their objections.

Members of the Committee asked questions of the objectors in accordance with the Hearing Procedure.

The Committee then heard Mr Angus & Ms Mitchell, applicants, in support of the application.

Members of the Committee asked questions of the applicants, in accordance with the agreed Hearing Procedure.

The Chair closed the Hearing.

7.3 Determination of Application

Councillor McKay, seconded by Councillor Young, moved that the application be refused on the grounds that the application would have a detrimental impact on the environmental amenity of the area and road safety concerns.

Councillor Raymond, seconded by Councillor Wilson, moved as an amendment that the application be approved subject to the conditions, and for the reasons, detailed in the report.

On a division by a show of hands the amendment was carried by 5 votes to 3.

8. APPLICATION NO: 05/1146/FL: STRATHMORE HOLDINGS: 19 TITCHFIELD STREET, GALSTON

There was submitted an executive summary sheet and report dated 8 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for proposed residential development comprising 3 terraced houses and 6 flats and the demolition of the house at No.19 Titchfield Street, Galston.

8.1. Consideration of Item

The Principal Planning Officer reported that 5 letters of objections had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the

Head of Planning, Development and Building Standards: Approval subject to the conditions, and for the reasons, detailed in the report but that the issuing of the decision notice be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.6 and 7.1 of the report.

8.2. Planning Hearing

The Committee heard Mr Andrews and Mrs Coyle in respect of their objections.

Members of the Committee asked questions of the objectors in accordance with the Hearing Procedure.

The Committee then heard Mr Beebe, applicant in support of the application.

Members of the Committee asked questions of the applicant, in accordance with the agreed Hearing Procedure.

The Chair closed the Hearing.

8.3. Determination of Application

Councillor McKay, seconded by Councillor O'Neill moved that the application be approved subject to the conditions, and for the reasons, detailed in the report but that the issuing of the decision notice be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.6 and 7.1 of the report, which they wished to be spent in the Galston area.

Councillor Young, seconded by Councillor McDill moved as an amendment that the application be refused on the grounds that the application would constitute an overdevelopment of the site and would be detrimental to the character and appearance of the area, given that a small part of the site lies within the Outstanding Area.

On a division by a show of hands the motion was carried by 6 votes to 2.

ADJOURNMENT/ RECONVENTION OF MEETING

9. It was agreed to adjourn the meeting at 1355 hours. The meeting reconvened at 1430 hours with the same members and Officers present and in attendance. (Councillor McGhee having left the meeting and Councillor Finlayson having rejoined the meeting at this point).

10. APPLICATION NO 04/0482/FL: G & D CUNNINGHAM LTD CEMETERY ROAD, GALSTON

There was submitted an executive summary sheet and report dated 8 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for proposed change of use from builders yard to site for 9 two storey houses at Cemetery Road, Galston.

The Principal Planning Officer reported that 2 letters of objections had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Approval subject to the conditions, and for the reasons, detailed in the report and subject to the amendment to condition 6 of the TP24 which should now read:-

- (6) Details of the boundary treatment along the southern boundary of the site and associated tree planting adjacent to it, shall be submitted to and agreed in writing by the Planning Authority prior to any work commencing on site. Thereafter, the approved scheme shall be implemented prior to the occupation of the last house.

and that the issuing of the planning decision notice be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraph 5.6 and 7.1 of the report.

No Hearing took place as the objectors were not present or represented at the Meeting.

It was agreed to approve the application subject to the conditions, and for the reasons, detailed in the report and subject to the amendment to condition 6 of the TP24 as detailed above, but that the issuing of the decision notice be withheld until the Solicitor to the Council had satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.6 and 7.1 of the report, which they wished to be spent in the Galston area.

11. APPLICATION NO: 06/0840/FL: SHIRE HOUSING: 2-12 NESS GARDENS, HURLFORD

There was submitted an executive summary sheet and report dated 8 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on a full planning application for proposed erection of 1800mm high treated timber fence (in retrospect) at 2-12 Ness Gardens, Hurlford.

11.1. Consideration of Item

The Principal Planning Officer reported that 1 letter of objection had been received, details of which were contained within the report; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Approval subject to the condition, detailed in the report.

11.2. Planning Hearing

The Committee heard Mr Masson in respect of the objection submitted by Lomond Avenue Residents Association Neighbourhood Watch.

The applicant was not present or represented at the meeting.

The Chair closed the Hearing.

11.3 Determination of Application

It was agreed to approve the application subject to the condition detail in the report.

12. APPLICATION NO 06/1023/OL: D LINDSAY: LAND FRONTING MAXWOOD ROAD, CASTLEVIEW AVENUE, GALSTON

There was submitted an executive summary sheet and report dated 5 February 2007 (both circulated) by the Head of Planning, Development and Building Standards on an outline planning application for residential development forming 2 building plots at land fronting Maxwood Road, Castleview Avenue, Galston.

Having noted that paragraph 2.4 of the report should refer to an outline application and not a full application, the Principal Planning Officer reported that no letters of objections had been received; summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Refusal, for the reasons, detailed in the report.

It was agreed to refer the application to the Development Services Committee with a recommendation for approval on the grounds that the application would improve the environmental and visual amenity of the area.

12. THE WATERSLAP, FENWICK (PROVISIONAL) TREE PRESERVATION ORDER 2006

There was submitted a report dated 8 February 2007 (circulated) by the Head of Planning, Development and Building Standards on the making, serving and advertising of the Waterslap, Fenwick (Provisional) Tree Preservation Order 2006 and which sought the Committees views on whether or not the existing Provisional Tree Preservation Order should be confirmed.

It was agreed to confirm the Waterslap, Fenwick (Provisional) Tree Preservation Order 2006, in amended form, to exclude Trees T4, T5 and T14 from the Order for the reasons detailed in section 6 of the report.

The meeting terminated at 1500 hours.

**EAST AYRSHIRE COUNCIL
NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY
2007**

**06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING
PLOTS
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE,
GALSTON
BY D. LINDSAY**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

1.2 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

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 is indicated in Section 5 of the report the application is not 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 refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved 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.

Alan Neish

Head of Planning, Development and Building Standards Division

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.

EAST AYRSHIRE COUNCIL

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007
06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING
PLOTS
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE
GALSTON
BY D. LINDSAY**

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 an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is contrary to the Development Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The outline planning application site comprises approximately 775 square metres of open ground located in the Rural Protection Area, immediately adjacent to the settlement boundary of Galston.

2.2 The outline application site is bounded to the north by the access road to the properties located at Barr Mill and to the south by the access road to Wallacehills kennels. The application site is bounded to the west by an access road and an area of open space located within the settlement of Galston, and to the east by open space located in the Rural Protection Area.

2.3 **Proposed Development:** The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

2.4 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Galston Community Council has offered no objections to the application.

Noted.

3.2 Scottish Power have made no objection to the proposal.

Noted.

3.3 Scotland Gas Networks have no objection to the proposal.

Noted.

3.4 East Ayrshire Council's Roads and Transportation Division has offered no objection to the proposal but have recommended that the proposed building line for the plots should be set back to allow for the construction of a two metre wide footway over the frontage of the plots. In addition the Roads Division has commented that since the application site does not abut a public road, the existing road would require to be extended over the frontage of the proposed plots.

Should the application be approved, since the proposal is in outline any details relating to roads issues could be dealt with by the future submission of a reserved matters application.

3.5 East Ayrshire Council's Roads and Transportation Division Flooding Section have offered no objection to the proposal. However, the Flooding Section states that the applicant will require to consider the potential surface water flow path from the adjacent road in extreme rainfall events

Noted

4. REPRESENTATIONS

4.1 The application was advertised in the Kilmarnock Standard and no letters of objection have been received in relation to the proposal.

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 (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- A has a site specific locational need
- B can be justified in terms of social and economic benefit to the community
- C contribute to rural land diversification: or
- D provides for the operational needs of agriculture and forestry

The applicant has provided additional information stating that the proposed site is vacant and is unused and once formed part of the Strathaven to Kilmarnock railway line. According to the applicant the site is frequently the depository of persistent fly tipping. In this instance the applicant has not demonstrated a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. In addition, the applicant has not justified the proposal in terms of social and economic benefit to the community nor does the proposal contribute to rural land diversification. Furthermore, the applicant has not demonstrated that the proposed residential plots are required for the operational needs of agriculture or forestry. Consequently the proposal is contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan.

Adopted East Ayrshire Local Plan (EALP)

5.3 Policy RES 13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES 8 above.

The Policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

In addition, the policy enables the Council to request applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information.

The applicant's submitted supporting information does not provide details of a site specific locational need to justify the location of the proposed houses in the Rural Protection Area. Furthermore, the proposed residential plots are not required for full time agricultural or forestry workers employed directly on the land to which the proposal relates. The application is therefore considered to be contrary to policy RES 13 of the East Ayrshire Local Plan.

5.4 Policy SD3 states that within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only where:

- (i) comprises an acceptable form of residential use as detailed in Policy RES 13 of the Local Plan; or

As previously stated the application does not conform with Policy RES 13 of the Local Plan.

- (ii) can be fully justified in terms of site specific locational need; or

The applicant's submitted supporting information has not provided details of a site specific locational need to justify the location of the proposed house in the Rural Protection Area.

- (iii) can be fully justified in terms of social and economic benefit to the community; or

The applicant has not justified the proposal in terms of social or economic benefit to the community.

- (iv) contributes to rural land diversification

It is considered that the proposal does not contribute to rural land diversification.

- (v) provides for the operational needs of agriculture or forestry.

The applicant has not provided evidence to support the proposal in terms of the operational needs of agriculture or forestry.

The proposal does not comply with any of the above mentioned criteria for residential development.

Consequently, the proposal is contrary to Policy SD3 of the Local Plan.

5.5 Policy RES 17 states that residential development in the countryside will not be permitted in nine stated circumstances. Three of those circumstances are pertinent to the application, these being:

(iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries.

It is considered that the proposed residential plots would constitute an inappropriate extension of development into the countryside as Maxwood Road is seen as a strong defensible boundary which should not be breached.

(vi) where the development would, in itself, constitute or add to sporadic or ribboning of development along public or private roads in rural locations.

It is considered that approval of this application would lead to ribboning development along this road in a rural location.

(ix) where the development would not meet the service requirements of the Council as a Roads Authority or the standards of all appropriate statutory undertakers and other service providers.

The Council's Roads and Transportation Division has stated that as the application site does not abut a public road the applicant will require to extend the public road over the frontage of the proposed plots. In addition the Roads Division will require the formation of a two metre wide footpath over the frontage of the proposed plots.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the planning history, the letter of support, impact on amenity and the Ayrshire Joint Structure Plan Finalised Version.

Consultations responses

6.2 It is not considered that any of the consultation responses received indicate that the application should be refused.

Representations received

6.3 No letters of objection have been received in connection with the application.

Planning History

6.4 An outline planning application 05/0199/OL for the formation of two residential plots was withdrawn on 14/09/2005 by the applicant after discussions with this Division.

Letter of Support

6.5 The applicant has provided a letter of support stating that the proposed site once formed part of the Strathaven to Kilmarnock railway line and that the site is currently vacant and is frequently the depository of fly tippers.

In this instance the applicant has not provided details of a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. It is the responsibility of all landowners where fly tipping is problematic, to take measures to remove any dumped materials that cause the site to have an adverse visual impact. Fly tipping is not a justification for approving a dwelling contrary to policy; such an approach would actually be likely to encourage more fly tipping.

6.6 In addition, the applicant considers that the proposed development site is located immediately adjacent to the Galston settlement boundary and that an alteration to the settlement boundary to accommodate the proposal could be undertaken without compromising the Council's ability to retain its policy stance.

It is acknowledged that the proposed application site is located immediately outwith the Galston settlement boundary. However, the proposed site is located within the Rural Protection Area and it is not considered that the supporting information justifies a site specific locational need that would merit approval of the application. In fact the dwelling would constitute an inappropriate extension of development into the countryside.

Impact on Amenity

6.7 Taking into account that the proposal includes the removal of part of the Rural Protection Area at this location it is considered that the proposal would result in a significant detrimental impact on the appearance of the wider area.

Ayrshire Joint Structure Plan Finalised Version

6.8 Policy COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and

clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

6.9 The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential developments in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

The proposed outline application site for residential plots is located in the Rural Protection Area, outwith the settlement of Galston and is therefore considered to be contrary to Policy Comm 5 of the Finalised Version of the Ayrshire Joint Structure Plan. In addition, the proposal does not conform with Policy Comm 5 because the residential plots are not proposed to meet the operational requirements of agriculture or rural business.

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 the report the application is not 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 refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

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 Development and Building Standards it 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, Development and Building Standards

05 February 2007
(JL/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Consultation responses
3. Letter of support
4. Adopted East Ayrshire Local Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Ayrshire Joint Structure Plan Finalised Version
7. Statutory Notices and Certificates
8. Relevant Planning applications:
05/0199/FL

Anyone wishing to inspect the above papers please contact Jane Little,
Planning Officer, on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No. 06/1023/OL

Site of Proposal: Land fronting Maxwood Road/Castleview Avenue, GALSTON

Nature of Proposal: Residential Development Forming Two Residential Plots

Name & Address of Applicant: D. Lindsay
1 Maxwood Holdings
Galston
KA4 8LZ

Name & Address of Agent: Ross McKay Architects
Shalmstry
1 Ardlochan Terrace
Maidens
Girvan
KA26 9NX

DPOs Reference: JL/RH

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

1. The proposed development would be contrary to Policies SD3 and RES 13 of the East Ayrshire Local Plan in that the applicant has not successfully demonstrated a site specific locational need for the proposal.
2. The proposed development is contrary to the requirements of Policy RES 17 of the Adopted East Ayrshire Local Plan in that it proposes residential plots that would constitute an inappropriate extension of development into the countryside.
3. The proposed development would be contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy COMM5 of the Finalised Ayrshire Joint Structure Plan in that the applicant has not demonstrated a site specific locational need for the proposal.

**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.**