

EAST AYRSHIRE COUNCIL

**LOCAL REVIEW BODY - POSITION STATEMENT IN RESPECT OF LRB
10/0641/PP: McILVANNEY CRESCENT, LONGPARK, KILMARNOCK**

1. CURRENT POSITION

1.1 A Notice of Review in respect of planning application 10/0641/PP for the removal of play park at McIlvanney Crescent, Longpark, Kilmarnock, by CCG Homes Limited was received on 20 December 2010. The following related documents are set out in the Appendices to this position statement:-

- Appendix 1 - Notice of Review Submission;
- Appendix 2 - Decision Notice; and
- Appendix 3 - Report of Handling.

1.2 In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008, interested parties who had made, and had not withdrawn, representations in connection with the application were invited to submit further representations in relation to the review of the original decision. A further representation was received and this was forwarded to the appellant for further comment. This further letter of representation and a response from the appellant are set out in the following Appendices:-

- Appendix 4 - Further Letter of Representation received; and
- Appendix 5 - Response to Letter of Representation.

8 February 2011
CB/SR

APPENDIX

Notice of Review

East Ayrshire
Council

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS
THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008
THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)	Agent (if any)
Name <input type="text" value="CCG HOMES LTD"/>	Name <input type="text" value="CALUM MURRAY"/>
Address <input type="text" value="11 CAMBRISLAND RD.,
GLASGOW"/>	Address <input type="text" value="AS Adj."/>
Postcode <input type="text" value="G32 8HB"/>	Postcode <input type="text"/>
Contact Telephone 1 <input type="text" value="0141 643 3799"/>	Contact Telephone 1 <input type="text" value="07880 502465"/>
Contact Telephone 2 <input type="text" value="0141 643 3733"/>	Contact Telephone 2 <input type="text"/>
Fax No <input type="text" value="0141 642 9195"/>	Fax No <input type="text" value="0141 642 9195"/>
E-mail* <input type="text"/>	E-mail* <input type="text" value="cmurray@ccg-homes.co.uk"/>
	Mark this box to confirm all contact should be through this representative: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
* Do you agree to correspondence regarding your review being sent by e-mail? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Planning authority	<input type="text" value="EAST AYRSHIRE COUNCIL"/>
Planning authority's application reference number	<input type="text" value="10/0641/PP"/>
Site address	<input type="text" value="MILLVAHNEY CRESCENT, LONGPARK, KILMARNOCK"/>
Description of proposed development	<input type="text" value="INSTALLATION OF CHILDRENS PLAY AREA"/>
Date of application	<input type="text" value="23.8.2010"/>
Date of decision (if any)	<input type="text" value="8.10.2010"/>

Notice of Review

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

- LETTER DATED 17 NOVEMBER 2010 : WYNNING HADRIAN HA LTD.
- REPORT + PETITION DATED 12TH NOV 2010
- STATEMENT IN SUPPORT OF REVIEW
- SITE LAYOUT DRG NO L(9-)05 REV B

Notes.

1. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.
2. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.
3. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Please complete and return this form to Head of Democratic Services, East Ayrshire Council, Council Headquarters, London Road, Kilmarnock, KA3 7BU.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

Notice of Review

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

THE GENERAL PRINCIPLE OF OMISSION RELATIVE TO LOCAL DEMAND

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

No REASON FOR UNACCOMPANIED SITE INSPECTION

Notice of Review

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

REFER ATTACHED : STATEMENT IN SUPPORT OF REVIEW

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

WE ENCLOSE IN SUPPORT OF THIS REVIEW A PETITION SIGNED BY LOCAL RESIDENTS AND SUPPORTED ALSO BY THE LOCAL HOUSING ASSOCIATION WHICH DEMONSTRATES THE DEPTH OF FEELING IN THE COMMUNITY OVER THIS REQUIREMENT.



Chief Executive: Mr F.A. Sweeney M.B.A., F.C.I.H.

Our ref:

LA/JS/Deansgate,Kilmarnock

17th November 2010

Calum Murray
CCG (Scotland) Ltd
11 Cambuslang Road
Cambuslang Investment Park
Glasgow
G32 8NB

Dear Calum,

DEANSGATE, KILMARNOCK

Further to our meeting held yesterday in the Association's offices, please find enclosed a copy of the original signatures obtained from the residents as part of a petition supporting the removal of the play park plans from the Planning Consent.

Also attached is a copy report dated 12th November 2010 prepared by our Community Participation and Engagement Officer which summarises the feedback obtained.

I trust this information will be used to supplement your Notice of Review to East Ayrshire Council.

In addition, we will forward you, in the next few days, letters of support from Cunniff Housing Association/Cunniff Enterprises.

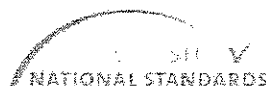
Please advise if you require any further information.

Kind regards,

Linda Anderson

Linda Anderson
HEAD OF DEVELOPMENT SERVICES

C.c. Frank Sweeney, Chief Executive
Steven Good, Head of Property Services



CUNNINGHAME HOUSING ASSOCIATION LTD

RESIDENTS PETITION

REMOVAL OF PLAY PARK PLANS

The residents of McIlvanney Crescent and McIlvanney Drive were canvassed for their views on East Ayrshire Councils intention to provide a play park area within McIlvanney Crescent.

The residents were notified that the Associations Community Participation and Engagement Officer would call at their homes on the morning of 8th November 2010 and early evening on 11th November to ensure maximum opportunity for all residents to voice their opinions.

There are currently 23 occupied properties within this area, 15 by owners and 8 by private tenants.

The views of residents from 22 properties were recorded. One resident was not available over the two visits.

Residents from 20 properties signed the petition against the provision of the play area. More than half of the residents on the petition have children. One resident thought the play park would be a good idea and one resident was not interested in commenting. The resident who wants the play park has no children.

All owners residing in the Deansgate Development are against the provision of the play park.

2 Owners actually stated they would move in the event of the play area going ahead due to the anti-social behaviour they perceive it would cause.

The petition was supported by a total of 27 signatures. Some joint owners signed individually. 18 signatures were obtained from resident owners and 9 from private tenants.

The strength of feeling is running very high with residents asking how else they can get involved to prevent these plans from going ahead.

All resident were advised that they would be kept up to date with any future developments in relation to the play area.

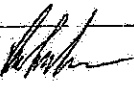
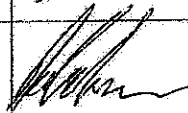
Ian Macpherson
Community Participation and Engagement officer
12/11/10

**CUNNINGHAME HOUSING ASSOCIATION LTD
RESIDENTS PETITION**

We, the undersigned residents within the Deansgate Estate Kilmarnock, wish to object to the outcome of the determination by East Ayrshire Council of the undernoted Planning Application:-

Application No:	10/0641/PP
Proposal:	Removal Of Play Park
Address:	Mclvanney Crescent, Longpark, Kilmarnock, East Ayrshire
Application:	REFUSED

We do not wish to see the installation of a play area within our estate given the potential for anti - social behaviour as well as increased potential for vandalism and crime within the area.

Name	Address of Resident	Signature of Resident	Date Signed
MRS A McCORMACK	9 McIlvanney Crescent K/K.	Anne McCormack	8/11/2010
MR R McCORMACK	9 McIlvanney Crescent K/K.	Robert McCormack	8/11/2010.
Miss S MCEWAN	5, McIlvanney Cres KILMARNOCK	S. Mcewan	8/11/2010
MRS Rozon Morgan.	1 MACKVIMMY DRIVE KILMARNOCK	R. Morgan	8/11/2010
Cyndee Raymond	2 MCLVANNEY DR KILMARNOCK	Cyndee Raymond	8/11/2010
	2 McIlvanney Drive		8/11/2010
S BUTLER	17 MCLVANNEY DAVE	S BUTLER	8/11/2010

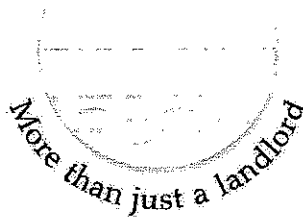
**CUNNINGHAME HOUSING ASSOCIATION LTD
RESIDENTS PETITION**

We, the undersigned residents within the Deansgate Estate Kilmarnock, wish to object to the outcome of the determination by East Ayrshire Council of the undernoted Planning Application:-

Application No:	10/0641/PP
Proposal:	Removal Of Play Park
Address:	McIlvanney Crescent, Longpark, Kilmarnock, East Ayrshire
Application:	REFUSED

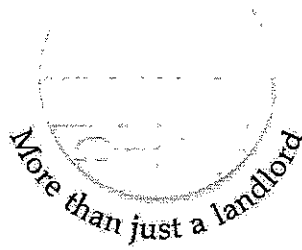
We do not wish to see the installation of a play area within our estate given the potential for anti - social behaviour as well as increased potential for vandalism and crime within the area.

Name	Address of Resident	Signature of Resident	Date Signed
MRS. A. SACKSON	17, M ^C ILVANNEY CRESC, KILMARNOCK	A Jackson	8/11/10
MRS H. MATHIESON	15, M ^C ILVANNEY CRESC, KILMARNOCK	H. Mathieson	8/11/10
MR B. MATHIESON	15, M ^C ILVANNEY CRESC KILMARNOCK	B Math	8/11/10
ANGELA PETTIGREW	15 M ^C ILVANNEY DRIVE KILMARNOCK	A Pett	8/11/10
SIMON GLADSTONE	31 M ^C ILVANNEY DRIVE KILMARNOCK	S. Gladstone	8/11/10
CAROLINE ORR	29 M ^C ILVANNEY DRIVE KILMARNOCK	C ORR	8/11/10
ANNEA ARMSTRONG	35 M ^C ILVANNEY DRIVE K/K	P. Armstrong	8/11/10

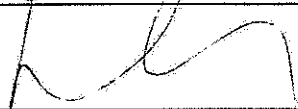


**CUNNINGHAME HOUSING ASSOCIATION LTD
RESIDENTS PETITION**

Name	Address of Resident	Signature of Resident	Date Signed
BOGDAN KASPRZAK	8 McILVANNEY CRESC.	<i>[Signature]</i>	11.11.10
NORMAN PENNY	5 McILVANNEY DRIVE	Norman Penny	11.11.10
LYNN PENNY	5 McILVANNEY DRIVE	Lynn Penny	11.11.10
GRAHAM MCCARD	7 McILVANNEY DRIVE	<i>[Signature]</i>	11/11/10
Mary Gemmell	8 McIlvanney	Mary Gemmel	11/11/10.
HAZEL SMITH.	16 McILVANNEY CRES.	H. Smith.	11/11/10.
ALLY SMITH.	16 McILVANNEY CRES.	A. Smith.	11/11/10.
JERRY SWAN	12 McILVANNEY CRES.	<i>[Signature]</i>	11/11/10
CAROL JACKSON	17 McILVANNEY CRES	<i>[Signature]</i>	11/11/10
RYAN MILLER	14 McILVANNEY CRESCENT	<i>[Signature]</i>	11/11/10



**CUNNINGHAME HOUSING ASSOCIATION LTD
RESIDENTS PETITION**

Name	Address of Resident	Signature of Resident	Date Signed
LAURA MILNER	141 McILVANNEY CRESCENT		11/11/10



**CUNNINGHAME HOUSING ASSOCIATION LTD
RESIDENTS PETITION**

We, the undersigned residents within the Deansgate Estate Kilmarnock, wish to object to the outcome of the determination by East Ayrshire Council of the undernoted Planning Application:-

Application No:	10/0641/PP
Proposal:	Removal Of Play Park
Address:	McIlvanney Crescent, Longpark, Kilmarnock, East Ayrshire
Application:	REFUSED

We do not wish to see the installation of a play area within our estate given the potential for anti - social behaviour as well as increased potential for vandalism and crime within the area.

Name	Address of Resident	Signature of Resident	Date Signed
GEORGE CLARK	13 M ^C ILVANNEY DRIVE	<i>[Handwritten Signature]</i>	12/11/10.
ANNE CLARK	13 M ^C ILVANNEY DRIVE	Anne Clark	12/11/10.

Statement in Support of Review

Whilst the Planning Application to remove the play area is acknowledged to be contrary to Policy CS 1 of the adopted local plan, we would contend that the application of such policy requires to be considered not only in wider local planning context but more particularly at a neighbourhood level.

The installation of equipped play facilities will, in our opinion, and those within the community only serve to provide a focal point for anti-social behaviour already widely prevalent within the estate. The strength of feeling locally in this regard is running very high as evidenced by the Residents Petition submitted in support of this notice; this petition is supported also by the Cunninghamme Housing Association, the prevailing Social Landlord within the Estate which also provides factoring services to owners & tenants alike.

Policy CS 1 states relative to community facilities that **'The Council will respond positively to changing needs and demand'**; the depth of local support and demands, arising from the prevalence of anti-social behaviour and precedent set in this regard, calling for omission of this play installation will, we trust, will provide substantiation for this review.

APPENDIX 2

DN3 - PP(Local Development)(Refusal)

Department of Neighbourhood Services
Head of Planning and Economic Development Service
Alan Neish Dip TP



Postal address: EAC Planning & Economic Development, PO Box 26191,
KILMARNOCK, KA1 9DX
E-mail address: submittoPlanning@east-ayrshire.gov.uk
Office locations: Kilmarnock 6 Croft Street, Kilmarnock, KA1 1JB
(if calling in person) Phone 01563 576790 Fax 01563 576774
Lugar Council Offices, Lugar, Cumnock KA18 3JQ
Phone 01563 555320 Fax 01563 555270

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended by The Planning etc. (Scotland) Act 2006)

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application Reference Number: 10/0641/PP

TO: CCG Homes Ltd
FAO Mr Calum Murray
11 Cambuslang Road
Cambuslang Investment Park
Glasgow
G32 8NB

REFUSAL OF PLANNING PERMISSION

With reference to your application validated on 23rd August 2010 for planning permission under the above-mentioned Act and Regulations for the following development:

Removal of play park as indicated in the plans:

Plan Type	Reference	Version No	Received Date
Block Plan	L(9) 100		23.08.2010
Proposed Site Plan	L(9) 05		15.07.2010

AT

Mcllvanney Crescent, Longpark, Kilmarnock, East Ayrshire

East Ayrshire Council in exercise of their powers under the above mentioned Act hereby **REFUSE** planning permission for the said development. The reasons for the Council's decision are:-

1. The proposed development would be contrary to Policy CS 1 of the Adopted East Ayrshire Local Plan as the proposal seeks to remove approved community facilities.
2. The proposed development would be contrary to Policy RES 19 of the Adopted East Ayrshire Local Plan as the proposal would not meet with the standards set out in Schedule 3 for a residential development.
3. The proposed development would be contrary to Policy CS 1 of the East Ayrshire Local Plan 2010 as the proposal seeks to remove approved community facilities.

4. The proposed development would be contrary to Policy RES 22 of the East Ayrshire Local Plan 2010 as the proposal results in the removal of play equipment from areas of recreational open space.
5. The proposed development would be contrary to Policy RES 23 of the East Ayrshire Local Plan 2010 as the proposal would not meet with the standards set out in Schedule 4 for a residential development .

Dated this **8th October 2010**

Signed.....

Alan Neish

Head of Planning and Economic Development

Notes to Applicant

1. If the applicant is aggrieved by the decision of the Planning Authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the Planning Authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 **within three months from the date of this notice**. A Notice of Review form for this purpose is available for download from the Councils website (<http://www.east-ayrshire.gov.uk/devser/planandbuild/online.asp>) or on request by contacting the offices listed above. The completed Notice of Review form should be sent to the **Head of Democratic Services, East Ayrshire Council, Council Headquarters, London Road, Kilmarnock, KA3 7BU**.
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

EAST AYRSHIRE COUNCIL

REPORT OF HANDLING

Application Number : 10/0641/PP

Applicant Name: CCG Homes Ltd

Development : Removal of play park from planning consent 06/0636/FL and substitute with amenity open space

Location : Mcllvanney Crescent
Longpark
Kilmarnock
East Ayrshire

Type : Planning Permission

1. Development Description

Removal of play park from planning consent 06/0636/FL and substitute with amenity open space.

The development relates to an area of play equipment which should have been provided under planning consent 06/0636/FL. This play park area and associated equipment was part of a wider housing scheme providing 138 dwellings of a mixed social and low cost home ownership tenure. In terms of open space the development provides two large centrally located areas and one smaller area.

2. Site Description

The application site is a small area set within one of the larger approved grassed and landscaped amenity open areas within the site. The open space area is looped by an access road for the adjacent dwellings and by Mcllvanney Drive to the east. The site is generally level and is immediately bounded by parking to the north west and south east and by grassed open areas to the immediate south west and north east. The site is overlooked by residential properties to the north, west and south and to a lesser extent by properties across Mcllvanney Drive to the east.

3. Representations Summary

No letters of objection have been received in connection with the application and one letter of support has been received, details of which are summarised as follows;

1. As a major landlord operating across North and East Ayrshire, we are well aware of difficulties presented by the inclusion of play facilities and in our experience play equipment can be a source of anti social behaviour and attract vandalism. As a major landlord within Longpark we would therefore fully support the application not to incorporate the play area within the McIlvanney Crescent development.

Whilst it is noted that vandalism and anti social behaviour can be problems associated with play areas, this is not the case with all play park areas. In this instance the representee is basing their support on a degree of past experience however it should be noted that they advise 'play equipment can be a source of anti social behaviour and attract vandalism' which indicates that this may not have been experienced in all occasions. In this instance the play equipment has not been provided on site therefore the support is not based on actual events on the ground at this location but rather an experience(s) at other locations.

Given the small size of this play area and its excellent degree of overlooking from the housing and from McIlvanney Drive itself, it is considered that it could be viewed as short sighted to allow removal of a play area where that justification is based on a perceived threat of vandalism and anti social behaviour rather than an actual experience on site.

4. Consultations Summary

Development Planning And Regeneration – see section 5 below.

Outdoor Services FAO David Law has not responded at the time of writing.

Head Of Housing has advised that the site was visited and no play park could be seen.

Strathclyde Police FAO PC Fiona Davidson have not responded at the time of writing.

5. Development Plan Summary

East Ayrshire Local Plan

Policy CS1 states that the Council will respond positively to changing needs

and demands for community and educational facilities throughout East Ayrshire. Wherever possible, existing facilities will be retained and improved and support and encouragement will be given to all other community facility and public service organisations to maintain and improve the services they provide.

As the play area was approved as part of the wider housing development it should therefore be considered as a committed part of the overall development which is to be provided. The non provision of the play area could be considered to be contrary to policy CS1 as there is a general presumption in favour of retaining and improving existing community facilities, not removing them.

Policy RES 19 relates to the Councils residential open space provision for housing developments and requires areas of active recreational open space, which includes play areas, to be provided as an integral part of the development.

Planning consent 06/0636/FL met with the standards of policy RES 19 in terms of open space provision and the provision of play areas. Given that the play area is not yet on site, it is considered that this policy remains relevant to the current proposal. On this basis, the removal of the play area would in fact be contrary to the terms of this policy.

6. Material Considerations

East Ayrshire Local Plan 2010 (The EALP 2010 has been approved however has not yet been formally adopted by the Council. On this basis it can be afforded considerable weighting as a material consideration in the determination of planning applications)

Policy RES 22 advises that the Council will seek to protect, preserve and enhance the residential character and amenity of existing residential areas. In this regard there will be a general presumption against; (iii) the removal of play equipment from areas of recreational open space.

As the proposal would result in the loss of the consented open space which is to be provided with the 06/0636/FL consent, it is therefore contrary to this policy.

Policy RES 23 relates to the Councils residential open space provision for housing developments and requires areas of active recreational open space, which includes play areas, to be provided as an integral part of the development.

Planning consent 06/0636/FL met with the standards of policy RES 19 of the EALP in terms of open space provision and the provision of play areas. Given that the play area is not yet on site, it is considered that this policy would also be relevant to the current proposal. On this basis, the removal of the play area would in fact be contrary to the

terms of this policy.

Policy CS1 states that the Council will respond positively to changing needs and demands for community and educational facilities throughout East Ayrshire. Wherever possible, existing facilities will be retained and improved and support and encouragement will be given to all other community facility and public service organisations to maintain and improve the services they provide.

As the play area was approved as part of the wider housing development it should therefore be considered as a committed part of the overall development which is to be provided. The non provision of the play area could be considered to be contrary to policy CS1 as there is a general presumption in favour of retaining and improving existing community facilities, not removing them.

Planning history

Planning application 06/0636/FL for the erection of 138 dwellings was approved with conditions on 8 December 2010.

This application met with EALP policy RES 19 in terms of open space provision. The play area formed part of this provision and the developer advised that they were willing to provide such equipment which was specifically referenced in the report to planning committee.

Supporting statement

The applicant has included a statement to demonstrate that the proposal is acceptable and that there are reasons why the provision of the play area is not advisable. The key issues of the supporting statement include the social and economic dynamics of the area being extreme with distinct patterns of antisocial behaviour which were apparent during construction and remain unaltered. Access across the site has been a persistent issue with significant numbers of youths and young adults wishing to maintain desire lines through the site to congregation points for drink and drug consumption. On this basis we consider the provision of the play area will exacerbate the issue and create a 'venue' for this type of anti social behaviour.

During and post construction there have been issues with the houses and common landscaped areas being vandalised, graffiti and fire damaged.

These difficulties have been discussed with Housing, Planning and the Local Housing Association which has resulted in larger numbers of wardens and police present in the area to limit damage.

Despite these attempts the social dimension is outwith our control and management of the situation has required input and resources from other agencies. As a result we ask that the proposal is looked on favourably for the benefit of the local community.

The applicant does not provide details of where these desire lines are

located within the site however given the public nature of the residential street layout, this may just be generally through the area rather than across the open space areas specifically. Furthermore, the applicant does not advise whether the 'congregation points' are outwith the site, within the wider site area or specifically at the public open space areas.

Given the excellent location of the open space area in general which is well overlooked on all sides by the adjacent houses and road network, it is considered that the play area becoming a 'venue' for alcohol and drug consumption is exaggerated. There is no clear link provided by the applicant to indicate that congregation is happening in this area specifically therefore it is considered to be conjecture that the provision of the play area will automatically result in this issue.

It is noted that the applicant has experienced problems with anti social behaviour, particularly during construction. Whilst this is unfortunate, it is not an uncommon occurrence with large development sites and tends to reduce down significantly post construction and in this respect the applicant has provided little firm evidence of significant on going problems.

The improved provision of community warden and police presence, combined with an excellent degree of overlooking will help to deter anti social behaviour and the provision of the play area itself is not considered to exacerbate the issue and can be monitored by these groups and the wider community.

Letter of support

As advised at section 3 above, it is considered that support is based on an element of past experience with such areas rather than this site in specific. Whilst it is not denied that there can be issues associated with such areas, it is considered in this instance that the good degree of overlooking combined with the ongoing warden and police monitoring will significantly minimise such issues at this site.

Consultation responses

No significant or particularly pertinent comments have been raised by the consultees.

Impact on the amenity of the area

The provision of the play area was a requirement under the development plan and will provide a useful community facility to nearby residents. Whilst concerns over potential anti social behaviour have been raised, it is not considered that this outweighs the likely community benefit of the provision of such a facility particularly as no evidence to the contrary has been provided.

7. Financial and Legal Implications

There are no financial or legal implications.

8. Application Assessment

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 Ayrshire Local Plan (2003).

As demonstrated at section 5 above, the proposal is considered to be contrary to policies RES 19 and CS 1 of the Adopted East Ayrshire Local Plan.

In terms of material considerations, the EALP 2010 provides a similar stance to the adopted EALP. The proposal would be contrary to policies RES22, RES 23 and CS 1 and this carries considerable weighting. The applicant acknowledges this fact and in response has provided a supporting statement in favour of their proposal which is further supported through a specific letter of support from a third party. The key points made by the applicant are noted in relation to potential anti social behaviour, desire lines and past and existing experiences of anti social behaviour. It is not disputed that the applicant has experienced problems with this site however it is felt that they have not provided any clear link that would demonstrate that the provision of the play area would create new, specific problems by its presence or that it will add to any problems that may have been or are being experienced. On this basis and given the excellent degree of overlooking and monitoring available at this location, it is considered that the comments in support of the application do not outweigh the development plan or indeed the EALP 2010.

9. Recommendation

Refused

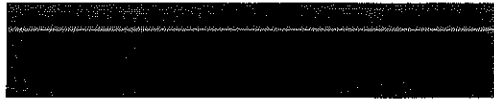
10. Reasons for the Decision

The proposal is contrary to the terms of the development plan and in this instance material considerations do not, on balance, indicate that the application should be approved contrary to the development plan.

Case Officer :

David Wilson

Signature:



Date:

30/9/10

Principal Planner:



8/10/10

Signature:

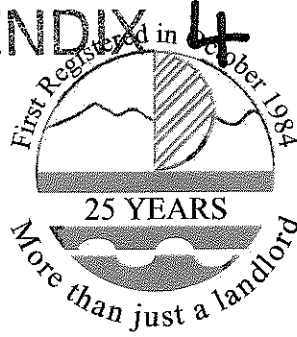
Date:

**Development
Management Manager**

:

Signature:

Date:



Chief Executive: Mr F.A. Sweeney M.B.A., F.C.I.H.

Our ref: LA/JS/PlayparkRemoval

21st January 2011

FAO Bill Walkinshaw
Head of Democratic Services
East Ayrshire Council
London Road
Kilmarnock
KA3 7BU

CORPORATE SUPPORT		
25 JAN 2011		
	Date	Initials
Acknowledged		
Dealt with		
Copies to:		

APPLICATION REF: LRB10/0641/PP: REMOVAL OF PLAYPARK FROM PLANNING CONSENT 06/0636/FL AND SUBSTITUTE WITH AMENITY OPEN SPACE AT MCILVANNEY CRESCENT, KILMARNOCK BY CCG HOMES LTD

I am writing in response to the above application by CCG requesting a review of the decision taken by the local Review Body in respect of the removal of the play park from the Deansgate development.

The Association is the major social landlord operating within the Longpark Estate with approximately 400 properties being managed from our office base at Campbeltown Drive.

Over the years, the Longpark Estate has benefitted from significant public and private subsidy investment and this strategic focus on the area has resulted in considerable change taking place within Longpark.

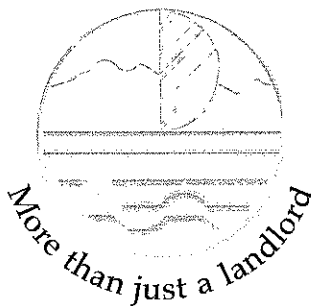
Most recently, our new build development at Longpark Phase 6 has transformed the Estate into an area in where people want to live.

We have worked hard to change the perception of the Longpark Estate and most recently, we have been appointed as Factors of the private houses within the Deansgate Estate offering factoring services to the private owners.

Within the private estate, we are also completing the purchase of 20 properties which had lain vacant and unsold for some 2 years and had the potential to impact negatively on the estate by attracting vandalism and potential problems associated with long term void properties.

/...





Bill Walkinshaw
Head of Democratic Services
East Ayrshire Council

21st January 2011

We feel that our actions are representative of our commitment to safeguarding the considerable investment made to date within the Longpark area.

For this reason, we have real concerns over the installation of a play park within the Deansgate Estate.

Our experience as a landlord managing a total of approximately 2,100 properties and operating across North and East Ayrshire is that the inclusion of play facilities can attract vandalism and be a source of anti social behaviour within an area.

The Association took the opportunity to speak to the Deansgate residents individually and the results of this consultation are incorporated within a petition which we understand accompanies CCG's Application for Review.

The feedback we received was overwhelmingly in favour of not installing a play area within the estate, a position which is fully supported by us.

In conclusion, the Association wishes it formally noted that we do not wish to see a play area included within the Deansgate Estate and we would ask that the local Review Body take cognisance of our views when considering CCG's Application for Review.

Yours sincerely,

Linda Anderson
DIRECTOR OF ASSET MANAGEMENT AND INVESTMENT

APPENDIX 5

Morrison, Jennifer

From: Calum Murray [cmurray@ccg-homes.co.uk]
Sent: 02 February 2011 15:56
To: Morrison, Jennifer
Subject: App Ref :LRB 10/0641/PP

Jennifer , thank-you for your communication of 25th January 2011. We consider the submitted information to be supportive of our case and as such we do not intend to make any further comment .

We await your further guidance in this matter.

Kind regards

Calum Murray

Managing Director

CCG Homes Ltd

11 Cambuslang Road

Cambuslang Investment Park

Glasgow G32 8NB

Tel : 0141 643 3799

Fax : 0141 642 9195

Web: www.ccg-homes.co.uk

Registered Office: 1 Cambuslang Road, GLasgow, G32 8NB

Registered in Scotland : Company No SC279342

This message may contain confidential information and is intended only for the individual named. If you have received this email in error, you should not disseminate, distribute or copy it but delete it from your system. Email transmission cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the contents of this message, which arise as a result of email transmission. If verification is required please request a hard-copy version.