

## EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE 28 MARCH 2008

**07/0817/FL: PROPOSED ERECTION OF EIGHT DWELLINGHOUSES AND  
ASSOCIATED TRAFFIC CALMING WORKS  
AT CRAGSTON HOUSE, 13 LOUDOUN STREET, STEWARTON, KA3 5JD  
BY MANOR KINGDOM LTD**

### EXECUTIVE SUMMARY SHEET

#### 1. DEVELOPMENT DESCRIPTION

1.1 The application site measures an area of 1.7 hectares and relates to a large two storey detached dwellinghouse with a substantial area of surrounding garden grounds and the site also includes part of Loudoun Street. The application site currently includes the two storey property Cragston House, a tennis court, a large greenhouse, an outbuilding and two raised planter areas. The majority of the application site is located within the Stewarton settlement boundary. However a section of the application site, situated to the south west, is located in the Rural Protection Area, immediately adjoining the Stewarton settlement boundary.

1.2 The application site is bounded to the north and the west by two storey detached dwellinghouses on Loudoun Street, to the south by Brides Burn and to the east by agricultural land. The application site slopes steeply downward from north to south and is covered by a Tree Preservation Order.

#### 2. RECOMMENDATION

**2.1 It is recommended that the Planning Application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraph 7.1 and 7.2 of the report.**

#### 3. CONCLUSIONS

3.1 As indicated in the report, the application is in part considered contrary to the terms of the Development Plan. Therefore it should be refused unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application and in this instance due to the unique nature of the site it is

considered on balance that these are of sufficient weight to merit the approval of the application.

3.3 Approval of this application for the part of the site located in the rural protection area would not introduce residential activity to that part of the site for the first time; rather it would allow for the continuation of that established use. Given that planning permission was previously granted for a greenhouse on the part of the site located in the rural protection area and the high quality of the replacement proposals, it is considered that an exception to policy can be justified and the proposal supported in this instance. The proposed dwellinghouses are considered acceptable and beneficial to both the character and appearance of the area.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development it will not require to be referred to the Principal Planning Committee, as there would not be a significant breach of Council Policy.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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#### Report by Head of Planning and Economic Development

### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Northern Local Planning Committee under the scheme of delegation, due to the fact that the proposal represents a departure from the Development Plan.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site measures an area of 1.7 hectares and relates to a large two storey detached dwellinghouse with a substantial area of surrounding garden grounds and the site also includes part of Loudoun Street. The application site currently includes the two storey property Cragston House, a tennis court, a large greenhouse, an outbuilding and two raised planter areas. The majority of the application site is located within the Stewarton settlement boundary. However a section of the application site, situated to the south west, is located in the Rural Protection Area, immediately adjoining the Stewarton settlement boundary.

2.2 The application site is bounded to the north and the west by two storey detached dwellinghouses on Loudoun Street, to the south by Brides Burn and to the east by agricultural land. The application site slopes steeply downward from north to south and is covered by a Tree Preservation Order.

2.3 **Proposed Development:** Planning permission is sought to sub divide the existing Cragston House curtilage and erect eight detached dwellinghouses with associated traffic calming works on Loudoun Street. The proposed eight dwellinghouses are dispersed throughout the redline site to take account of the sloping ground and the dwellinghouse fronting the public road has a relationship to both the public road and the new access road serving the development.

2.4 Six house types are proposed for the site: the Senator 2 house type proposed for plots 1 and 7 covers a footprint area each of some 295 sq metres,

the Braemuir 2 proposed house type for plots 2 and 4 covers a footprint area each of some 175 square metres, the Earl house type proposed for plot 3 covers a footprint area of 185 square metres, the Diplomat 2 house type proposed for plot 5 covers a footprint area of 230 square metres, the President Special 2 house type proposed for plot 6 covers a footprint area of 185 square metres and the President Special 3 proposed for plot 8 covers a footprint area of 216 square metres. All proposed dwellinghouses are two storey in size and finished externally in Lothian mock bond slate effect tile, white dry dash roughcast, buff faced Annestone, buff precast cills, buff dry dash roughcast, white upvc windows and black upvc downpipes.

2.5 All proposed dwellinghouses are accessed from a new shared surface access road leading from Loudoun Street and a new public footpath will be formed along the southern side of Loudoun Street. The access road has been formed to a width of 5.5m with 2m wide footpath on the eastern side of the road. It is proposed to remove the existing stone gate pillars and reinstate the pillars at the junction of the new access road with Loudoun Street. It is proposed to rebuild a small section of the existing wall, on the north east corner of the site which fronts onto Loudoun Street.

2.6 The proposal includes the erection of a detached hipped roofed double garage on plots 2, 4 and 6. The proposed detached garage measures 6.5 metres in length by 6.5 metres in width and reaches a maximum height of 4.6 metres. The dwellinghouses at plots 1 and 7 incorporate a triple integral garage and the dwellinghouses at plots 3, 5 and 8 incorporate a double integral garage.

2.7 The proposal includes the construction of a small ground level pumping station located to the south of plot number 4, immediately adjacent to the southern boundary of the application site. This will pump foul drainage up to the existing sewer on Loudoun Street.

2.8 The proposal also includes the demolition of the existing glass greenhouse, outbuilding and raised planter areas situated to the west of Cragston House.

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

3.1 Stewarton Community Council - has objected to the application. The Community Council raises the following comments:

3.1.1 While it would appear from the site layout plan that traffic sight lines for vehicles emerging from the proposed site have been considered the point of emergence is just at the peak of the hill forming part of Loudoun Street thereby making visibility of vehicles approaching uphill from either direction a cause for

concern. Traffic calming measures are also shown but these provisions have not always been successful in slowing the speed of the traffic.

***The Council's Roads Division has not objected to the proposal and has indicated that the applicant will require to obtain a traffic calming order for the proposed traffic calming works. It should be noted that road safety issues are a matter for the Council's Roads Division.***

3.1.2 A fair number of mature trees are to be sacrificed to carry out the development and their proposed loss to the countryside should not be taken lightly.

***It is acknowledged that the proposed development will result in the loss of trees within the site. However, the applicant has agreed to replace the removed trees with a significant number of semi mature trees reaching a maximum height of between 8 metres and 9 metres tall. The applicant has agreed to further tree replacement along the eastern boundary of the site, around the pumping station, the open space adjacent to the swale and the open garden ground associated with plots 7 and 8.***

***Conditions can be attached to any grant of planning consent addressing the matter of tree retention, protection and replacement where necessary as outlined.***

3.1.3 Here again a site is proposed for development with sewerage difficulties which require provision for the pumping uphill of sewage and waste water to connect to the town's main sewerage system.

***It is acknowledged that the proposed development includes the formation of a pumping house for sewerage purposes. However it should be noted the Scottish Water have not objected to the application. Should planning permission be granted a note could be attached to any consent advising the applicant to contact Scottish Water regarding this issue.***

3.1.4 The Community Council feel that the entrance/exit proposed for the site is potentially dangerous and therefore object to the application.

***The Council's Roads Division consultation response does not object to the application and does not raise any concern over road safety issues.***

3.2 East Ayrshire Council's Roads and Transportation Division have no objections to the proposal subject to the imposition of conditions on any planning consent pertaining to the requirement that no works shall commence on the development site until the traffic calming on Loudoun Street has been approved

by the Council. It is further advised that the developer is required to obtain road construction consent prior to the commencement of works on site.

***Should the Committee be minded to approve the proposal, a condition can be attached relating to the traffic calming on Loudoun Street and a note requiring the developer to obtain a road opening permit.***

3.3 East Ayrshire Council's Outdoor Amenities Division have not objected to the application but raise the following issues:

3.3.1 The developer proposes to remove a large number of trees within the site for various reasons. The application site is located within a Tree Preservation Order area and proposes to remove some significant trees within the site for development purposes. These trees should be replaced wherever possible with suitable species of extra heavy standard size.

***The applicant has submitted details of a tree management scheme which indicates which trees are proposed to be removed and the reason for the removal. The applicant has confirmed that 71 trees would be removed from the site due to their poor condition and for management reasons, 16 trees will be removed to accommodate the development and 17 small trees and shrubs will be removed to accommodate the development. However, the applicant has agreed to replace the removed trees with a significant number of semi mature trees reaching a maximum height of between 8 metres and 9 metres tall. The applicant has agreed to further tree replacement along the eastern boundary of the site, around the pumping station, the open space adjacent to the swale and the open garden ground associated with plots 7 and 8.***

***The applicant has submitted details of the tree management proposals and the tree protection proposals and a condition can be attached to any grant of planning consent addressing the detailed matter of tree replacement.***

3.4 Scottish Water has no objections to the application. However Scottish Water indicate that any planning approval granted by the Local Authority does not guarantee a connection to its infrastructure until a satisfactory solution is reached with the developer.

***A note can be attached to any grant of planning consent addressing the matter outlined above.***

3.5 Scottish Environment Protection Agency (SEPA) have made no objection in principle to the proposal however they made the following points:

3.5.1 SEPA notes that the foul drainage arising at the site will be connected to the public sewerage system by means of a sewerage pumping station (sps), SEPA would expect the sps to be designed and constructed to adoptable standards, which will permit it to be duly vested by Scottish Water.

***A note can be attached to any grant of planning consent addressing the matter outlined above.***

3.5.2 The discharge of surface water from the site will require to be in accordance with General Binding Rule 10 (GBR) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005. Surface water (including roof drainage) should therefore be treated in accordance with the principles of SUDS (C697) Manual which was published by CIRIA in March 2007.

***A condition can be attached on any grant of planning consent requiring the approval of a SUDS system prior to any construction work on site.***

3.5.3 The flood risk assessment has determined that the site is not at risk of flooding. SEPA considers that based on the level information supplied the flood risk to the site from the Brides Burn is likely to be low and that there is unlikely to be a loss of flood storage.

***Noted.***

3.5.4 Construction works associated with the development of the site must be carried out with due regard to SEPA's guidelines on avoidance of pollution. Reference should be made to the relevant Pollution Prevention Guidance and to the CIRIA publication C651 "Environmental Good Practice Pocket Book". The development of the site may entail operations such as the importation or removal of waste material such as soil which may require a waste management license or confirmation of exemption.

***A note can be attached to any grant of planning consent to refer the applicant to SEPA's guidelines on avoidance of pollution and the need for a waste management license.***

3.6 East Ayrshire Council Roads Division Flooding Section - has no objections to the proposals in principle but make the following points

3.6.1 In relation to flooding issues from the adjacent watercourse there is a significant level difference from the Brides Burn to the finished floor levels of the dwellinghouses such as not to cause flooding.

***Noted.***

3.6.2 Access along the entire length of the Brides Burn within the development site must be provided for inspection and maintenance.

***A condition can be attached on any grant of planning consent to address the above issue.***

3.7 Scotland Gas Networks – No objection to the application.

***A note can be attached to any grant of planning consent to refer the applicant to Scotland Gas networks.***

3.8 Scottish Power – No objections to the proposals and Scottish Power has confirmed that there is no sub station located within the application site.

***A note can be attached to any grant of planning consent to refer the applicant to Scottish Power.***

3.9 West of Scotland Archaeology Service – No objections to the proposal and no substantive archaeology issue is raised by the application.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 The application has been advertised as Development Contrary to the Development Plan. Seven letters of objection have been received from eight objectors in connection with the application. One of the letters of objection was received from Stewarton Community Council and is addressed at section 3 of this report. The additional points of objection are as follows:

4.2 Local Plan

I believe that part of the site is located outwith the Local Plan boundary.

***Whilst It is acknowledged that a section of the application site is located outwith the Local Plan settlement boundary of Stewarton and is situated in the Rural Protection Area, the majority of the application site is located within the Stewarton settlement boundary. It should be noted that the section of the application site situated outwith the settlement boundary is surrounded on three sides by the existing garden ground of Cragston and is bounded by the natural boundary of Brides Burn to the south thereby creating a natural defensible boundary to the site. Consequently it is considered that the inclusion of this area of the site, which is located outwith the settlement boundary, in the overall application site would constitute an acceptable departure from the Development Plan.***

#### 4.3 Road Traffic

Loudoun Street is the main route to the M77 from Stewarton and already suffers from too much traffic. A new development would add to this existing problem. Additional traffic on Loudoun Street albeit there are provisions for traffic calming measures nonetheless exiting onto the B778 does give additional traffic on an already busy road.

***East Ayrshire Council's Roads Division's consultation response does not object to the proposal and does not raise any comments in relation to issues of traffic congestion.***

#### 4.4 Traffic Calming

Concern has been raised in regard to the traffic flow and the noise that is continuously experienced by traffic calming measures. With some thought by the Roads Department traffic calming measures outside our house should be taken away and noise free measures introduced as a condition of any planning consent. If ideas such as; road narrowing to reduce traffic speed, a one way traffic system and consultation with owners in Loudoun Street with regard to traffic flow as other suggestions may be forthcoming.

***It is considered that the traffic calming measures as proposed do not constitute a significant addition to the existing traffic calming measures on Loudoun Street. The issue of road design to incorporate traffic calming measures is a matter for the Council's Roads Division. It should also be noted that the applicant will require to submit an application for road construction consent to the Council's Roads Division and the issue of traffic calming measures would be covered by this procedure.***

#### 4.5 Surface Water

Run off surface water approximately one acre (8 large houses) draining into Brides Burn will increase the volume of water in Brides Burn and cause damage to the banks of properties along the burn west of Cragston. Where other properties border the burn the banks will be subjected to additional erosion.

***The consultation response received from SEPA does not object to the application and indicates that the discharge of surface water from the site will require to be in accordance with General Binding Rule 10 (GBR) of the Water Environment (Controlled Activities) (Scotland) Regulations 2005. Surface water (including roof drainage) should therefore be treated in accordance with the principles of SUDS (C697) Manual which was published by CIRIA in March 2007.***

***A condition can be attached on any grant of planning consent requiring the approval of a SUDS system prior to any construction work on site.***

#### 4.6 Pollution of Brides Burn

What preventative measures are there against pollution of the burn should there be a power failure at the sewage pump house.

***The consultation response received from SEPA notes that the foul drainage arising at the site will be connected to the public sewer system by means of a pumping station. This pumping station should be constructed to adoptable standard to enable the station to be adopted by Scottish Water and to meet Scottish Water's emergency requirements.***

#### 4.7 Privacy

I am concerned that Plots 7 & 8 will be directly overlooking the back and front gardens of Cairnduff and the close proximity of these houses will impede the privacy currently available. The development will also impact the privacy of Cragston.

***Given that the dwellinghouses proposed for plots number seven and eight are located a minimum distance of 14 metres and 18 metres respectively from the property at 11 Loudoun Street, it is considered that the proposed dwellinghouses are situated a sufficient distance from the property at 11 Loudoun Street to not result in any adverse affect on the privacy of that property.***

***In relation to Cragston House it is considered that the proposed development will not result in a detrimental affect on the privacy of that property as Cragston House will retain its own substantial area of private garden ground thereby providing sufficient distance to any nearby property to avoid issues of overlooking.***

#### 4.8 Design Standards

I do not believe that the proposed new dwellings will be in keeping with Cragston House.

***It is considered that the proposed dwellinghouses are compatible with Cragston House in terms of their detailing, scale and proportions. Indeed the overall design of the proposed dwellinghouses reflects the material finish and window detail of Cragston House. In general, the proposed layout includes a variety of house types of differing sizes which are sympathetic to the appearance, character and setting of Cragston House.***

#### 4.9 Damage to Property

Cairnduff was built circa 1896 and originally belonged to the Makie family who owned the Bonnet factory in the town. It has many original features including

ornate plasterwork. I am concerned that major building works in close proximity will cause irreparable damage to the property.

***Any damage caused to neighbouring properties during any construction works would be a private legal matter between the developer and the house owner.***

## **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 Ayrshire Joint Structure Plan (2007) and the Adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 Policy COMM5 of the Ayrshire Joint Structure Plan, which relates to Housing in the Countryside, is pertinent to the proposed development and 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.

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

***It is considered that the proposal seeks to confirm the residential use of an area of ground that is currently used as garden ground by Cragston House and includes an outbuilding, greenhouse and two raised planter areas. The area of the application site situated outwith the settlement boundary is surrounded on three sides by residential land and is bounded to the south by Brides Burn which would form a natural defensible settlement boundary. Consequently it is considered that the inclusion of this area of the site, which is located outwith the settlement boundary, in the overall application site, would be an acceptable departure from the Development Plan.***

## East Ayrshire Local Plan

5.3 Policy RES 5 of the East Ayrshire Local Plan indicates that within settlement boundaries, the Council will be supportive of the sub-division of existing house curtilages for the development of dwellinghouses subject to the following criteria being met:-

- (i) The proposal is fully in keeping with the existing residential character and appearance of the area within which it is located;

***It is considered that the proposed development will be in keeping with and sympathetic to the residential character and appearance of the surrounding area. The proposed dwellinghouses conform and compliment the landscape character of the area and the design of the donor property and the adjacent dwellinghouses, particularly in terms of scale, form, materials and finish.***

- (ii) The proposal meets all the design requirements of the Council and does not create unacceptable damage to the amenity of surrounding properties; and;

***The proposed development does meet the design requirements of the Council and provides a high standard of design in terms of detailing, scale and proportion of the dwellinghouses proposed. In addition the material finishes and window fenestration proposed conform and compliment the donor property at Cragston House.***

- (iii) Acceptable levels of privacy are maintained to neighbouring properties and the new housing proposed.

***It is considered that the proposed well designed development at this location is compatible with surrounding house types and the donor property and would not adversely affect the residential amenity of the adjacent properties. The proposed dwellinghouses are not out of size, scale or character with adjacent properties and are fully in keeping with the existing residential character of the area. There are no significant overlooking issues that would result in any adverse affect on the privacy of adjacent properties.***

***Therefore it is considered that the proposal would not result in an adverse affect on the established amenity of the donor property or the surrounding area.***

5.4 Policy RES 22 indicates that all developers will require to adhere to the minimum private open space standards detailed in Schedule 4 of the Local Plan.

***The proposal provides significantly more than the required 100 square metres of private open space of the type required by Policy RES 22 of the Local Plan for both the proposed dwellinghouses and the donor property at Cragston House.***

5.5 Policy ENV 15 of the East Ayrshire Local Plan states that The Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire. In particular, the Council will actively seek to protect those individual groups of trees which contribute significantly to the landscape quality of the built and rural environment.

***It is acknowledged that the proposal would have a detrimental impact on some of the mature trees covered by the tree preservation order within the site. However, some trees are in a poor condition and dead and would require to be removed. The applicant has agreed to replacement tree planting which would include the provision of a significant number of semi mature trees reaching a maximum height of between eight and nine metres tall. The applicant has also agreed to further tree replacement along the eastern boundary of the site, around the pumping station, the open space adjacent to the swale and the open garden ground associated with plots 7 and 8.***

***Should planning consent be granted a planning condition would be attached to any consent requiring the applicant to plant replacement trees of a suitable size and species within the grounds.***

5.6 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 in five stated circumstances.

(i) comprises an acceptable form of residential use as detailed in Policy RES13 of the Local Plan: or

***As detailed in section 5.8 the proposal does not form an acceptable form of residential use as detailed in Policy RES13 parts (i) to (iv).***

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

***As detailed in section 5.8 the applicant has not provided details of a site specific locational need for the proposal.***

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

***The proposals will provide an indirect benefit to the community in relation to the contributions residents would make to the economy of the area.***

- (iv) contributes to rural land diversification; or

***It is considered that housing does not contribute to rural land diversification.***

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

***The proposal does not provide for the operational needs of agriculture and forestry.***

5.7 Policy SD6 states that the Council will positively encourage the re-use and redevelopment of brownfield land, both in the area settlements and in the rural area, in preference to the development of Greenfield sites. The release of greenfield land for development will require to be fully justified and will be supported only where an alternative, developable brownfield site is not readily available, marketable or capable of development for the purposes envisaged.

***The applicants submit that the proposal is in accordance with policy SD6 given that the proposal will redevelop an existing brownfield site where the existing buildings on site do not lend themselves to conversion or re-use. In this instance the existing large greenhouse, outbuilding and raised planter areas, located in the rural area part of the site, do not lend themselves to conversion or reuse.***

***Whilst the redevelopment of this brownfield site in the rural area is not presented as an alternative to the development of a greenfield site, it is considered that it generally accords with the principle aim of this policy to redevelop a redundant brownfield site prior to the release of any Greenfield sites.***

5.8 Policy RES13 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 RES8 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.

***The proposal does not comply with the sets of criteria (i) to (iv) of Policy RES13.***

***No site specific locational need for the development has been provided by the applicant.***

5.9 Policy TLR5 states that the Council will, subject to the necessary finance being available, improve and enhance the provision of leisure, recreational and sporting facilities in the area settlements and throughout the area. In this regard, the Council will request all potential developers of residential sites comprising four or more houses to enter into an agreement with the Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the development relates.

***The applicant's agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5, will require a formal agreement to be entered into between the Council and the applicant.***

5.10 Policy RES 17 states that residential development in the countryside will not be permitted in nine stated circumstances. One of those circumstances is pertinent to the application, this being:

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

***It is acknowledged that part of the development site is located outwith the settlement boundary of Stewarton. However, since this area of ground is currently used by the donor property at Cragston House as garden ground and includes an outbuilding, a large greenhouse and two raised planter areas it is considered that the proposed development would not constitute an inappropriate extension of development into the countryside.***

5.11 Policy ENV 7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and policy documents relating to and advising on the particular type of development proposed. Developments which do not meet these required design standards detailed in these documents will require to be fully justified. In this instance the relevant design guidance is New Residential Development in the Countryside.

***The proposed house type complies with the requirements of the Council's Design Guidance document for new residential development in terms of general building form and material finishes.***

5.12 On balance whilst the proposal meets the general aims of policies SD6, RES5, RES22, ENV7 and TLR5 it fails to satisfy the criteria of policies SD3, RES17 and RES13 which are considered the principle policies outlining the relevant criteria for appropriate residential development in the countryside. Therefore the proposal is in part contrary to the terms of the development plan.

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations, the planning history of the site, the applicants supporting statement and the impact on the amenity of the area.

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused subject to the imposition of appropriate conditions on any grant of planning consent.

### Representations

6.3 The representations received have been summarised in Section 4 of the Report and are not considered to be of such weight as to merit refusal of the application.

### Impact on the Amenity of the Area

6.4 It is considered that the proposed high quality development would not have a detrimental impact on the established character or amenity of the property at Cragston House or on the surrounding area. The applicant has been willing to consider traffic calming as a method of reducing vehicle speed and providing safe pedestrian access at the location. In addition, it is considered that the proposed housing plots are of above average size to allow the location of a house and associated private garden ground and off road parking without significant adverse impact on the residential amenity of the area. Whilst it is acknowledged that the proposal requires the removal of some trees from the site it is considered that replacement planting of significantly sized and suitable tree species elsewhere within the adjoining grounds, is acceptable.

6.5 As previously stated part of the application site is located in the rural protection area and as such this part of the proposal is contrary to local plan

policy. However, it is considered that since this area of the site is enclosed on three sides by residential land and has been incorporated as garden ground for Cragston House for a considerable time period and includes a large greenhouse, outbuilding and two raised planter areas that an exception to policy can be justified and the proposal supported in this instance.

### Planning History

6.6 Planning permission (97/0339/FL) was approved with conditions on 05 August 1997 for the erection of an extension to residential dwellinghouse and construction of a new access and 1.8 metre high boundary wall.

6.7 Planning permission (03/0789/FL) was approved on 24 November 1997 for revisions to existing site entrance and boundary wall.

6.8 Planning permission (98/0744/FL) was approved with conditions on 15 January 1999 for a garage.

6.9 Planning permission (00/0484/FL) was approved on 11 August 2000 for a greenhouse on the site. It should be noted that the site for the approved greenhouse is currently located in the rural protection area and is part of the existing garden area of Cragston House.

6.10 Planning permission (05/0969/TP) was approved subject to conditions on 24 October 2005 for the felling of 8 trees and the lopping and topping of 8 trees

### Applicant's Supporting Letter

6.11 The applicant has submitted information in support of the application. The supporting information seeks to justify the use of the area of land which is currently located outwith the settlement boundary. The applicant states that a quarter of the application site is outwith the settlement boundary and that the site is currently used as garden ground to Cragston House, including two outbuildings. The deliberate terracing of the slope has been formed to make use of the land as recreational space to Cragston House.

6.12 The applicant considers that the proposed high quality, low density development is an appropriate use of the site which will in turn form a more concise defensible boundary to Stewarton. This would take the form of Brides Burn and would avoid the area being landlocked for future development.

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

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

7.2 The applicant's agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5, will require a formal agreement to be entered into between the Council and the applicant, should the application be approved.

## **8. CONCLUSIONS**

8.1 As indicated in the report, the application is in part considered contrary to the terms of the Development Plan. Therefore it should be refused unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application and in this instance due to the unique nature of the site it is considered on balance that these are of sufficient weight to merit the approval of the application.

8.3 Approval of this application for the part of the site located in the rural protection area would not introduce residential activity to that part of the site for the first time; rather it would allow for the continuation of that established use. Given that planning permission was previously granted for a greenhouse on the part of the site located in the rural protection area and the high quality of the replacement proposals, it is considered that an exception to policy can be justified and the proposal supported in this instance. The proposed dwellinghouses are considered acceptable and beneficial to both the character and appearance of the area.

## **9. RECOMMENDATION**

**9.1 It is recommended that the Planning Application be approved subject to the conditions indicated on the attached sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of the matters detailed in paragraph 7.1 and 7.2 of the report.**

## **CONTRARY DECISION NOTICE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development it will not require to be referred to the Principal Planning Committee, as there would not be a significant breach of Council Policy.

**Alan Neish**  
**Head of Planning, and Economic Development**  
**19 March 2008**

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Representations
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (2007).
7. Planning Permission 97/0339/FL.
8. Planning Permission 97/0789/FL.
9. Planning Permission 98/0744/FL
10. Planning Permission 00/0484/FL
11. Planning Permission 05/0969/TP
12. Applicant's Supporting Statement.

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

07/0817/FL

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Site of Proposal: Cragston House  
13 Loudoun Street  
Stewarton  
KA3 5JD

Nature of Proposal: Proposed Erection of 8 Dwellinghouses and associated traffic calming works.

Name & Address of Applicant: Manor Kingdom Ltd  
Regency House  
Halbeath  
Dunfermline  
KY11 7EG

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

1. Notwithstanding the plans hereby approved samples of all external materials shall be submitted to and agreed in writing by the Planning Authority before any development commences on the site.

REASON: In the interest of visual amenity

2. Construction work shall be restricted to the hours of 0800 to 1700 hours Monday to Friday, 0800 hours to 1300 hours on a Saturday and not at anytime on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

3. Prior to the commencement of any construction works on site, details shall be submitted of the foul drainage proposals for the prior written approval of the Planning Authority, thereafter the foul drainage scheme shall be installed on site in accordance with the approved details prior to the occupation of the first dwellinghouse.

REASON To ensure a satisfactory foul drainage system is provided for the development.

4. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban Drainage System shall thereafter be installed on site prior to the occupation of the dwellinghouses.

REASON To ensure that adequate drainage is provided.

5. Prior to the commencement of works on site, evidence shall be submitted that the developer has reached an agreement with Scottish Water for the provision of a water scheme to serve the development.

REASON To ensure adequate provision of a water supply for the development.

6. Prior to the commencement of works on site, a plan shall be submitted illustrating a suitable means of access along the watercourse for inspection and maintenance purposes. Thereafter, the scheme shall have received the written approval of the Planning Authority prior to the commencement of works on site.

REASON To ensure provision of a suitable inspection and maintenance access along the watercourse is provided.

7. Prior to the commencement of any construction works on site, full details of a scheme for both hard and soft landscaping shall be submitted to and approved by the Planning Authority. Said landscaping scheme shall be implemented not later than the next available planting season after the development has been carried out, to the satisfaction of the Planning Authority. Any planting removed without the consent of the Planning Authority or seriously damaged at any time thereafter shall be replaced by specimens of the same size and species.

REASON To ensure the provision of an appropriate landscaped area in the interest of residential and visual amenity.

8. Notwithstanding the plans hereby approved details of the proposed street lighting to serve the development shall be submitted to and approved in writing by the Planning Authority.

REASON In the interest of visual amenity.

9. Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved in writing by the Planning Authority before any development commences on the site.

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

10. Notwithstanding the plans hereby approved, details of all replacement tree planting shall be submitted for approval by the Planning Authority prior to the commencement of the development. Thereafter the approved planting shall be implemented prior to the occupation of the last house on the site.

REASON: In the interest of visual amenity.

11. Notwithstanding the plans hereby approved, details of the traffic calming on Loudoun Street shall be submitted for approval by the Planning Authority prior to the commencement of the development and thereafter implemented in full prior to any work commencing on the houses or internal road layout.

REASON: In the interests of road safety.

12. The developer shall ensure that during the development phase, adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other materials carried from the site.

REASON: In the interests of the amenity of the area.

13. Notwithstanding the approved plans a methodology statement addressing the dismantling of the gateposts and their re-construction and re-siting shall be submitted to and approved by the Planning Authority prior to the commencement of development on site and thereafter fully implemented on site prior to the occupation of any dwellinghouses.

REASON: In the interest of residential amenity

14. Notwithstanding the plans hereby approved the dwellinghouses on plot 1 and plot 7 shall each be used solely as a single dwellinghouse.

REASON: To ensure that each dwellinghouse is used as single dwellinghouse.

#### NOTES TO APPLICANT:-

1. Demolition of the existing buildings should be undertaken in accordance with the provisions of the relevant Code of Practice. All demolition material should be suitably disposed of and any special wastes (ie asbestos) should be

dealt with in accordance with regulatory requirements and disposed of to licensed landfill authorised for its acceptance.

2. The developer shall ensure that no nuisance is caused to nearby residents from any demolition activities eg. smoke, dust, noise etc.

3. The developer shall contact SEPA with regards to the requirement to obtain a waste management license or confirmation of exemption.

4. The removal of waste off site must be in accordance with the waste management regulations and the developer should contact SEPA with regards to the relevant requirements relating to the transport of controlled waste by registered carriers and the furnishing and keeping of duty of care waste transfer notes.

5. The developer shall make early contact with Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

6. The developer shall contact Scottish Water Planning and Development Services team for permission to connect to the public water network and to discuss whether the existing water supply may need upgrading in view of the proposed development, prior to any work commencing on site.

7. The developer shall contact the Council's Roads and Transportation Division with regards to obtaining road construction consent prior to the commencement of the development.

8. The developer shall contact Scottish Power with regards to any of their apparatus located at the site, prior to any work commencing on site.

9. The developer shall contact Scotland Gas Networks with regards to any of their apparatus located at the site in order to prevent any damage to Scottish Gas Networks plant, prior to any works commencing on site.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**