

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 17 AUGUST 2007

**07/0278/FL: ERECTION OF DWELLINGHOUSE
AT PLOT OF LAND, CESSNOCK ROAD, GALSTON
BY MURDOCH PROPERTY DEVELOPMENTS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

Full planning consent is sought to erect a single dwellinghouse. The dwellinghouse is proposed to front onto Cessnock Road and be of 1.5 storey construction with three dormer windows, two of which face the rear. The boundaries of the site would be defined by a 1.8 metre high timber fence to the north, west and east with a 1 metre high wall along the boundary with Cessnock Road. Access to the development is proposed to be taken from Cessnock Road.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet and that the issuing of the planning decision notice be withheld until a legal agreement is concluded with the applicant in respect of the voluntary financial contribution as stated in paragraph 7.1 of the report; or until such voluntary contribution has been received by the Division.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be a significant departure from 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. The consultees raised no issues that would warrant refusal of the applications. The issues raised by the objectors, whilst noted, are not considered to carry sufficient weight to allow a recommendation for refusal of the applications. The planning history of the site carries considerable weight, particularly the most recent approval, in outline, for three dwellinghouses. This

application considered that the loss of the open space required for the three dwellings would be acceptable as sufficient open space is retained to serve the estate to the north of the application site and the proposal was also in keeping with the residential nature of the area. It is considered that the scale and positioning of the dwellinghouse is such that a minimal impact on the surrounding area and neighbouring properties will occur.

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 be no significant breach of Council Policy.

Alan Neish
Head of Planning and Economic Development

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 Local Planning Committee under the scheme of delegation as it is a significant departure from the East Ayrshire Local Plan.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of open space, currently partially maintained by the Council, to the south east of Galston near the B7037 Galston to Sorn road. The site fronts onto Cessnock Road, between Sorn Place and Clockston Road. The site comprises an area of open space at the south western corner of an area of public open space, zoned as an area of open space in the Local Plan. To the north of the site is an area of grassed open space and dwellings and rear gardens of the properties on Sorn Place and Burnawn Place and to the south is Cessnock Road and dwellings that front onto Cessnock Road. To the west of the site is a small grassed area beyond this, on the corner of Cessnock Road and Sorn Place and to the east of the site is an area of ground owned by the applicant currently subject to a separate planning application for two dwellinghouses and beyond this is Dalhanna, a detached dwellinghouse at the junction with Clockston Road.

2.2 **Proposed Development:** Full planning consent is sought to erect a single dwellinghouse. The dwellinghouse is proposed to front onto Cessnock Road and be of 1.5 storey construction with three dormer windows, two of which face the rear. The boundaries of the site would be defined by a 1.8 metre high timber fence to the north, west and east with a 1 metre high wall along the boundary with Cessnock Road. Access to the development is proposed to be taken from Cessnock Road.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the development subject to the following criteria:

- i) No surface water discharge
- ii) Driveways hard paved for two metres from rear of footway edge
- iii) Gates to open inward, away from the public road
- iv) Access crossings to be formed and constructed to Roads Division specifications
- v) Any apparatus such as street lighting columns to be relocated 1 metre either side of the proposed access crossings
- vi) Public footway boundary to be clearly defined by edging kerbs
- vii) Fences and gated beyond the front building line to be no more than 800mm high
- viii) The applicant to contact the Roads Division to discuss an existing watercourse
- ix) The applicant to contact the Roads Division for a joint inspection of footways

Appropriate conditions and notes can be attached to any consent granted that will address the issues raised by the Roads Division.

3.2 Galston Community Council has no objections to the development.

Noted.

3.3 Scottish Water has no objections to the development provided the proposal has no adverse impact upon existing Scottish Water customers.

4. REPRESENTATIONS

The proposal was advertised in the Kilmarnock Standard with three letters of objection being received in connection with this application and a summary of their grounds of objection are detailed below.

4.1 Loss of privacy in rear garden which at present is not overlooked.

It is considered that the orientation of the proposed dwellinghouse is such that overlooking will be minimal. This is further reinforced by the 1.5 storey nature of the house which takes into account possible overlooking issues. Although it is noted that there is currently no overlooking into the objectors garden from the proposed location of

the dwellinghouse, the objectors garden is in a residential area and a small degree of overlooking will occur such as that between the objector and their existing neighbours.

4.2 My understanding is that this existing sewerage system is at maximum capacity and is part of the reason for a previous refusal.

Scottish Water has raised no objection to the development although they do note that there may be issues within the waste water network. Should there be problems with a foul drainage connection the developer may be required to bear the costs of any upgrade to the sewerage network. This issue was not the reason for any previous refusals of planning permission on this site.

4.3 Due to the proximity of these planned dwellinghouses it will have a negative effect on the value of my property.

The effect on the value of neighbouring property is not a material planning consideration and therefore cannot be taken into consideration in the determination of this application.

4.4 We expect, as the previous application had outline planning dated 09 August 1999, No 99/0274/OL, that all conditions as per that application will be taken into consideration with this new permission.

The conditions attached to consent 99/0274/OL were in relation to the outline application and specified that a reserved matters application should be submitted within 3 years of the date of that consent. The reserved matters application was not received and therefore the consent and conditions attached to that consent have lapsed and are not tied to these applications. The current full application addresses many of the points covered by condition in the 99/0274/OL application and any further points could be addressed by attaching appropriate conditions to any grant of planning consent.

4.5 As most houses on Cessnock Road are mainly single storey, the buildings on this development should be of a similar height.

It is considered that Cessnock Road does not have any one house type that is predominant with a mix of single, 1.5 storey and 2 storey houses. The proposed development is 1.5 storey which is considered to be in keeping with the types of houses nearby on Cessnock Road and Sorn Place.

4.6 The traffic on Cessnock Road has increased since 1999, one entrance and exit to this development would be advantageous.

The Councils Roads and Transportation Division has raised no objections to separate accesses at this location and it is considered that a single access to the dwellinghouse will be acceptable provided this is to the satisfaction of the Councils Roads and Transportation Division.

4.7 As Cessnock Road is a dedicated residential area we expect houses erected should be for residential use only.

This application relates to a residential use and it is not proposed to pursue any other use at this location.

4.8 I object to the loss of access to my back garden from Main Road.

Access to the objectors rear garden can currently be taken from Main Road however the applicant has claimed ownership of the ground and has correctly completed the appropriate ownership certificates. It is noted that access to the objectors rear garden can be achieved via the access to the open space at Burnawn Place. Should there be a legal right of access across the site, it is for the objector to safeguard his legal interests.

4.9 I object to the loss of privacy to our property as the new house will be directly looking into my back garden, conservatory and back bedroom.

The proposed 1.5 storey dwellinghouse is designed and positioned in such a way as to minimise overlooking of neighbouring properties. It is considered that the applicants claim that the dwellinghouse will look directly into the conservatory and back bedroom is incorrect due to the siting of the house. The proposed dwellinghouse will partially overlook the rear garden, however due to the residential nature of the area a degree of overlooking is to be expected.

4.10 The close proximity of the house and garden is very intimidating.

The proposed dwellinghouse is 23 metres from the objector's house, separated by both gardens. It is considered that this distance is adequate to provide an acceptable degree of separation and privacy and is of much greater distance than the objectors existing neighbours.

4.11 I object to the reduced quality of light to rear of the house.

The proposed dwellinghouse is 23 metres from the objector's house and due to the size and position of the proposed dwellinghouse, no significant reduction in sunlight will occur to the rear of the objector's dwellinghouse.

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).

Adopted Ayrshire Joint Structure Plan

5.2 There are no policies within the Ayrshire Joint Structure Plan relevant to the determination of this planning application.

Adopted East Ayrshire Local Plan

5.3 Policy TLR 8 states that there will be a presumption against development on those safeguarded areas of public and private recreational or amenity open space as identified on the Local Plan maps and on other undeveloped land within settlement boundaries which contributes to the setting, character and appearance of the settlement concerned. However, the following types of development on existing areas of maintained amenity or recreational open space will be considered appropriate, subject to compliance with all appropriate Council Development Promotion and Design Guidance:

- (i) Laying out of new playing fields, bowling greens, putting greens;
- (ii) Creation of all-weather sports facilities;
- (iii) Creation of new children's play areas; and
- (iv) Development of pavilions or other ancillary facilities to serve any existing or proposed outdoor sport and recreational activities in the area.

The site lies within an area of safeguarded public open space. None of the above types of development are pertinent to this application. It is considered that a previous outline grant of permission (see 6.4 below) for three houses at this location has indicated that the Council considered the principle of residential development acceptable which would therefore weigh in favour of residential development at this location.

5.4 Policy TLR 9 states that the development of both private and public recreational or amenity open space for purposes other than those described in Policy TLR8 above, will be permitted only in exceptional circumstances where:

- (i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site and where the development would not adversely affect the overall sporting, recreational and amenity value of the site itself; or
- (ii) Alternative provision of equal community benefit and accessibility can be made available within close proximity to the site; or
- (iii) There is a clear, long term excess of pitches, playing fields and amenity open space in the wider area.

It is broadly considered that the development does not meet the above criteria however the development will bring a form of enclosure to the space behind, confirming its original identity as open space for the housing development to the north and north west of the site which is still easily accessible to those outwith this estate via a short walk. The development is not considered to adversely effect the overall recreational and amenity value of the site as a considerable area remains as public open space and the Council previously considered through the granting of outline consent that the development of the application site would not impinge upon the recreational value of the area.

5.5 Policy ENV 7 of the Local Plan 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 the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

It is considered that the proposal generally meets with the Council's Design Guidance Number 2: New Residential Development in terms of layout, house design and the appearance of the surrounding area.

5.6 Policy RES 22 of the Local plan requires all developers to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

The proposal meets the standards for open space as set out in Schedule 4 of the East Ayrshire Local Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation response and representations received that are addressed in Sections 3 and 4 of this report, the planning history of the site and the impact on the amenity of the area.

Consultation Responses

6.2 It is not considered that any aspects of the consultation responses have raised any issues that would warrant the refusal of this application.

Representations Received

6.3 The concerns of the objectors with regard to overlooking are considered to be unsubstantiated as the design and position of the dwellinghouse reduces the level of overlooking to an acceptable level. The points raised with regard to roads and accesses was not supported by the consultation response of the Roads and Transportation Division although this could be considered in more detail by the Councils Roads and Transportation Division under condition.

Planning History

6.4 Planning application 99/0274/OL for proposed plots for 3 detached dwellinghouses was approved subject to conditions on 6 August 1999.

It is considered that the planning history of the site lends weight to the argument for approval of the current application. The outline consent effectively established a principle of residential development on this site despite the Local Plan designations.

6.5 Application KL/E/77/30G for a change of use of the application site to private open space (for grazing of horse) was refused consent in April 1981 as the proposed use was considered to be detrimental to the visual and residential amenity of the area.

6.6 Planning application KL/E/77/30 seeking full planning permission was approved on 21 April 1977 for the erection of 72 houses on land to the north of the current application site. A subsequent outline application for 1 dwellinghouse was refused on the 20 May 1977, on the area of the site identified as plot 1 on the submitted drawings, as it was considered that the ground was unsuitable for

building purposes. This was followed by an application for 35 houses on the western half of the housing site off Cessnock Road. This was submitted with an engineers report that stated that the ground was suitable for construction and was approved on 26 July 1978. A subsequent application for 47 houses on the eastern half of the housing site, which includes the current application site as part of the area of public open space, was approved on 21 September 1978.

Impact on the amenity of the Area

6.7 It is considered that the proposal will have a limited impact on the amenity of the surrounding area. The application site is currently a grassed area set aside in the local plan as an area of open space. This space allows easy access to the open space area from Cessnock Road although no formal access paths are to be found within the application site. It is considered that the loss of this space will not significantly affect the amenity of the area as the open space behind the application site will remain and can be accessed from Burnawn Place, a short walk from Cessnock Road. The area of open space was to be used primarily as open space for the “new” estate incorporating Sorn Place, Burnawn Place etc and is considered to be larger than necessary for this area as the estate also includes play areas separate from the application site. Therefore the loss of a small part of this open space, on an existing residential street is considered to be acceptable. The design and positioning of the house is such that minimal effects to the area and neighbouring property should occur with regard to overlooking and the overall design of the area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 The applicant is prepared to contribute voluntarily £1000, by formal agreement, towards the improvement and maintenance of the open space to the north and north east of the application site to offset the loss of the open space at the application site. It is considered that should the committee be minded to approve the application, the release of planning consent should be delayed until such time as the contribution has been confirmed as being received.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be a significant departure from 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. The consultees raised no issues that would warrant refusal of the applications. The issues raised by the objectors, whilst noted, are not considered to carry sufficient weight to allow a recommendation for refusal of the

applications. The planning history of the site carries considerable weight, particularly the most recent approval, in outline, for three dwellinghouses. This application considered that the loss of the open space required for the three dwellings would be acceptable as sufficient open space is retained to serve the estate to the north of the application site and the proposal was also in keeping with the residential nature of the area. It is considered that the scale and positioning of the dwellinghouse is such that a minimal impact on the surrounding area and neighbouring properties will occur.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheet and that the issuing of the planning decision notice be withheld until a legal agreement is concluded with the applicant in respect of the voluntary financial contribution as stated in paragraph 7.1 of the report; or until such voluntary contribution has been received by the Division.

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 be no significant breach of Council Policy.

Alan Neish
Head of Planning and Economic Development

09 August 2007
DW/RH
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Representation.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Planning Application No: 99/0274/OL..
8. Planning Application No: KL/E/77/30.
9. Planning Application No: KL/E/77/30G.

Anyone wishing to inspect the above papers please contact David Wilson, Planning Officer, on 01563 576779.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

07/0278/FL

Site of Proposal:	Plot of land at Cessnock Road GALSTON KA4 8lw
Nature of Proposal:	07/0278/FL: Erection of a dwellinghouse
Name & Address of Applicant:	Murdoch Property Developments 22E Maxwood Road GALSTON ML3 0QA
Name & Address of Agent:	D M architectural Services 17 Forge Road AYR KA8 9NN

DPOs Reference: DW/RH

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

1. The proposed development shall be carried out in accordance with the application form and plans received 02 April 2007 and the plans received on 17 July 2007.

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

2. Notwithstanding the plans hereby approved, details of the exact location, design, materials and style of the boundary treatments, including all soft landscaping, shall be submitted to, and approved in writing, by the Planning Authority prior to any development commencing on site and shall be implemented as approved on site prior to the occupation of the dwellinghouse.

REASON In the interests of visual amenity.

3. Prior to any work commencing on site, details and samples of all external finishes shall be submitted to and approved in writing by the Planning Authority and thereafter shall be implemented on site as approved.

REASON In the interest of visual amenity.

4. No surface water shall discharge from the application site onto the public road at any time.

REASON In the interests of road safety.

5. The private access road to the development shall be hard paved for a minimum distance of five metres from the rear of the footway edge of the public road and shall be implemented prior to the occupation of the dwellinghouses.

REASON To prevent the overcarry of loose material onto the public road in the interests of road safety.

6. Notwithstanding the plans hereby approved, further details of the access to the site shall be submitted to and approved in writing by the Planning Authority and implemented as approved thereafter.

REASON In the interests of road safety.

7. Any future gates shall require to only open inwards, away from the public road.

REASON In the interest of road safety.

8. Before any work commences on site, details of a Sustainable Urban Drainage System, to treat and minimise surface water run-off, and its maintenance following installation, shall be developed to the requirements of the Scottish Environment Protection Agency (SEPA) and submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be formed and maintained on site in accordance with the approved details prior to the occupation of any of the residential units.

REASON To ensure that adequate drainage is provided.

9. Details of foul drainage arrangements shall be submitted to and approved in writing by the Planning Authority prior to development commencing on site and shall be implemented and operational on site prior to the occupation of the dwellinghouse and thereafter maintained in accordance with the approved details.

REASON In the interests of public health and residential amenity.

NOTES

1. Any relocation of street lighting columns to accommodate the new access to the development will require to be located no less than 1 metre from the access.
2. The applicant must contact Craig McMurray of the Councils Roads Division to discuss the effects of the proposed works on the existing watercourse.
3. The applicant must contact the Council's Outdoor Amenities Division to discuss the effect of the proposed works on any Council held land.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
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VIEWING PLEASE CONTACT (01563) 576790.**