

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 4 JUNE 2010

**10/0043/PPP: PLANNING PERMISSION IN PRINCIPLE FOR ONE DETACHED
HOUSE AT LAND OPPOSITE 1 BRAEHEAD ROAD, FENWICK
BY: MR R WOODHOUSE**

Report by Head of Planning and Economic Development

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal is to erect a detached dwelling with garage. There are no detailed elements for consideration as the application is for planning permission in principle.

1.2 The applicant has submitted a supporting Design and Access Statement and Arboricultural Assessment with the application.

2. RECOMMENDATION

2.1 It is recommended that the Committee adopt the position in terms of the appeal process, that the application should have been approved subject to conditions. This view will thereafter inform Council's position in the appeal.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report if an application is in accordance with the development plan, the application should be approved unless material considerations indicate otherwise. This application has been appealed on the grounds of non determination and a formal decision cannot now be reached by the Council. However, in the absence of the appeal, the officer's recommendation would have been one of approval subject to conditions.

CONTRARY DECISION

Should the Committee agree that the application should have been refused contrary to the recommendation of the Head of Planning and Economic

Development, then the application will not require to be referred to the Full Council for a view, as it would not be a significant departure from 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 an application for planning permission in principle which has been appealed to the Scottish Government's Department of Planning and Environmental Appeals (DPEA) on the basis of non-determination, in order that the Committee can take a view on the merits of the proposed development. The application attracted more than 10 objections, and the Committee's view is sought on the merits of the application in order to inform the appeal case to be presented to the DPEA.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a substantial plot which was originally the rear garden ground of an adjacent house ('Braeheads') on Maunsheugh Road. The application plot is bounded by Braehead Road and Murchland Avenue and is some 1900 sq metres in area. The site has a number of trees which are protected by a Tree Preservation Order (TPO).

2.2. **Proposed Development:** The proposal is to erect a detached dwelling with garage. There are no detailed elements for consideration as the application is for planning permission in principle.

2.3 The applicant has submitted a supporting Design and Access Statement and Arboricultural Assessment with the application.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Fenwick Community Council have not responded to their consultation at the time of writing this report.

3.2 East Ayrshire Council Roads and Transportation Service have no objections to make subject to conditions on the access, the drive, and junction improvements. A footway would require to be formed along the frontage of the plot on Braehead Road.

These issues could be covered by conditions, however, there are protected trees in the vicinity and these would have to be taken account of in the formation of any new footway.

3.3 East Ayrshire Council Outdoor Amenities Service has no objections in principle, but does raise concerns about damage to the trees on site, and notes that further details would be required from the applicant to indicate how both the access road and footway could be constructed without damage to these trees.

These issues can be addressed by attaching relevant conditions. It would however be a matter for the applicant to confirm how it was intended to construct a new footway and access into the site without harming the existing trees.

4. REPRESENTATIONS

4.1 Twelve letters of objection, representing twenty objectors have been received. The main points of objection are as follows:

4.2 The verge and potential access is owned by East Ayrshire Council, and if it was for sale, why was it not offered to the surrounding residents? The boundary fence and verge will be disrupted by any development.

The ownership of the verge is not a material planning consideration. It is anticipated that this boundary will require some changes if an access over it is to be accommodated; however, in planning terms, the more salient issue is how to avoid any damage to the adjacent trees, rather than preserving the verge as a feature in itself.

4.3 Disruption to parking in the area, both during and after construction.

There will be additional, albeit minimal increase in traffic as a result of this proposal, however, the Roads Service have assessed the application and do not raise any concerns in terms of road safety.

4.4 Destruction of protected trees to the boundary verge – why do trees that are protected need to be removed to facilitate this development?

The trees specified for removal are those already benefitting from a permission granted on appeal (see paragraph 6.5 below). It is not indicated on the plans or access and design statement that any other trees will be affected. It would however be a matter for the applicant

to confirm adequate measures to protect the retained trees when submitting details of the access and boundary treatments.

4.5 This plot has no legal access rights.

The rear of the garden was partitioned off when the applicant owned Braeheads, with the intention that a house could be accommodated in the garden. The Council may be minded to grant a right of access over the verge; however, this is a private legal matter and not a material planning consideration.

4.6 This area has always been garden ground. Has the applicant received consent to change this to residential land?

The current application seeks to achieve planning consent for this residential use.

4.7 Any granting of consent to develop this greenspace will set a dangerous precedent for the rest of the village; the greenspaces are part of the intrinsic charm and character of Fenwick. The proposal would constitute 'backyard' development.

This plot has never been an identified greenspace as such; it was simply the rear garden of a large detached house. The adopted East Ayrshire Local Plan encourages the subdivision of existing house curtilages for new dwellings subject to detailed criteria being met. Backland development is assessed as sites not having a proper road frontage, however, in this instance the proposed house would front onto Braehead Road. This application as with any other, requires to be determined on its own merits in the circumstances of the site and as such approval would not set a precedent.

4.8 The proposal represents overdevelopment of the site at two dwellings. The tree removal (13) is excessive.

These comments relate to the earlier application for two houses, which was refused at appeal. There are no trees proposed to be removed as a result of this proposal, over and above the removal of ten trees whose felling was previously granted on appeal.

4.9 The visual impact of the proposal will impact detrimentally on the adjacent villa Braeheads, and there will be loss of light to the existing house and garden.

The visual impact of the proposal cannot fully be assessed as there are no detailed plans. Notwithstanding this the plot is sufficiently large to ensure privacy levels are maintained and an approval in principle would be appropriate subject to conditions securing an appropriate design.

4.10 Braeheads is a Category B listed building and the proposal could impact on the setting of the listed building.

Neither East Ayrshire Council nor Historic Scotland have any records of Braeheads being a listed building.

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 are 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 (AJSP) (2007) and the Adopted East Ayrshire Local Plan (EALP) (2007). It is not considered that there are any Policies within the AJSP relevant to the determination of this application.

Adopted East Ayrshire Local Plan (EALP) (2003)

5.2 Policy RES 5 applies, whereby the Council will support the subdivision of existing house curtilages within the settlement boundary, subject to the proposal [i] being in keeping with the surrounding residential character and appearance [ii] meeting the Council's design requirements and not causing unacceptable damage to the amenity of surrounding properties; and [iii] maintaining acceptable levels of privacy.

In this regard, it is considered that the proposal complies with the above policy, as the plot is sufficiently large to ensure privacy levels are maintained. The detailed design would be subject to assessment when any detailed application was submitted.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the Alterations to the East Ayrshire Local Plan (Finalised Draft with Modifications), the consultation responses and representation detailed in Sections 3 and 4 of the report and the planning history of the site.

Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications)

6.2 Policy RES 4 of the Alteration applies; however, it is very similar to adopted Policy RES 5, and the response remains the same as at Section 5.2 above.

Consultation Responses and Representations Received

6.3 The consultation responses have been addressed in Section 3 of the report and are not considered to raise any issues that would warrant the refusal of this application. Any issues could be addressed by appropriately worded conditions and would be subject to further assessment at the detailed planning stage. Turning to the objections received, the concerns raised relate to traffic generation, and loss of amenity to surrounding properties. Given the relatively large plot, it is considered such issues can be adequately controlled through the use of conditions requiring detailed matters to be assessed under a full detailed planning application.

Applicants Supporting Statement

6.4 The applicant has also provided a Design and Access Statement in support of the application which concludes that the site is extensive and privacy levels can be maintained, and at the detailed planning stage, the scale, height and design of the proposed house can be assessed accordingly to ensure there are no issues of overlooking. This also maintains that the proposal of one house on the plot is in keeping with the surrounding residential nature of the area and, given the TPO trees on site, the site will be well screened.

Planning History

6.5 The planning history of the site is relevant. Two previous applications 07/0862/OL, (erection of two dwelling houses) and application 07/0863/TP (removal 13 of the TPO trees) were refused on 2nd April 2009 at Northern Local Planning Committee, and subsequently these decisions were appealed.

The Reporter refused the appeal for the two dwellings on 4 December 2009 but noted he was persuaded that a new application for a single house 'may well be the way forward'. In response to the appeal on the application for the removal of 13 trees, he allowed the appeal but only to the extent of 10 specified trees.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. The Council, separate from the determination of any planning application, will have to consider any requests to form an access across land in its control.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report if an application is in accordance with the development plan, the application should be approved unless material considerations indicate otherwise. This application has been appealed on the grounds of non determination and a formal decision cannot now be reached by the Council. However, in the absence of the appeal, the officer's recommendation would have been one of approval subject to conditions.

9. RECOMMENDATION

9.1 It is recommended that the Committee adopt the position in terms of the appeal process, that the application should have been approved subject to conditions. This view will thereafter inform Council's position in the appeal.

CONTRARY DECISION

Should the Committee agree that the application should have been refused contrary to the recommendation of the Head of Planning and Economic Development, then the application will not require to be referred to the Full Council for a view, as it would not be a significant departure from Council policy.

Alan Neish
Head of Planning & Economic Development

MF/RH
26 May 2010

FV/DVM

List of Background Papers

1. Application form, plans and statutory notices/certificates;
2. Public Advertisements;
3. Consultation responses;
4. Adopted East Ayrshire Local Plan;
5. Appeal Decision: 07/0862/OL
6. Appeal Decision: 07/0863/TP

Anyone wishing to inspect the above papers should contact Marion Fergusson on 01563 576798

Implementation Officer: Dave Morris

East Ayrshire Council

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 10/0043/PPP

Location	Land Opposite 1 Braehead Road Fenwick Kilmarnock
Nature of Proposal:	Planning in principle to build one detached house on the land; this is a revised application previously made under reference 07/0862/OL
Name and Address of Applicant:	Mr Robert Woodhouse 4 Wyburn Avenue Barnet Herts EN5 5TG
Name and Address of Agent	

Officer's Ref: Marion Fergusson
01563 576769

The above Planning Permission in Principle application should be approved subject to conditions as follows:

1. Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the following matters hereby reserved.

- (a) The layout of the site and individual house plot;
- (b) The size, height, design and external appearance of the proposed dwellinghouse;
- (c) The means of drainage and sewage disposal including the provision of a Sustainable Urban Drainage System;
- (d) Details of the access arrangements;
- (e) Details of the provision for private open space to East Ayrshire Council's adopted standards;
- (f) The provision for car parking and vehicle turning within the site;
- (g) Any boundary walls/fences to be erected;

- (h) The landscaping and screening of the site including tree protection measures; and
- (i) Existing and finished site level/floor levels.

Reason: The approval is in principle.

2. Prior to the commencement of works on site, the junction of Braehead Road and Murchland Avenue shall be provided with the appropriate corner radius. This shall require to be constructed to adoptable road standard.

Reason: In the interests of vehicular and pedestrian safety.

3. A 2 metre wide footway shall be provided along the frontage of the site to East Ayrshire Council's Roads Service specifications; details of which shall be submitted to the Planning Authority prior to the commencement of works on site, and shall be adhered to on site thereafter. The applicant shall ensure the formation of the new footway shall not reduce the width of the carriageway.

Reason: In the interests of vehicular and pedestrian safety.

4. The applicant shall require to demonstrate in writing that any surface water from the new footway formation is able to be discharged to the satisfaction of Scottish Water into their sewerage system.

Reason: In the interests of servicing the site adequately.

5. For the avoidance of doubt, the trees numbered 894, 895, 897, 901, 904, 909, 910, 911, 913, 914, 915, 916, 917, 919, 920, and the most southerly tree on site annotated as 893, on drawing SK1, shall be retained on site and no works shall be undertaken to these trees without the prior written consent of the Planning Authority.

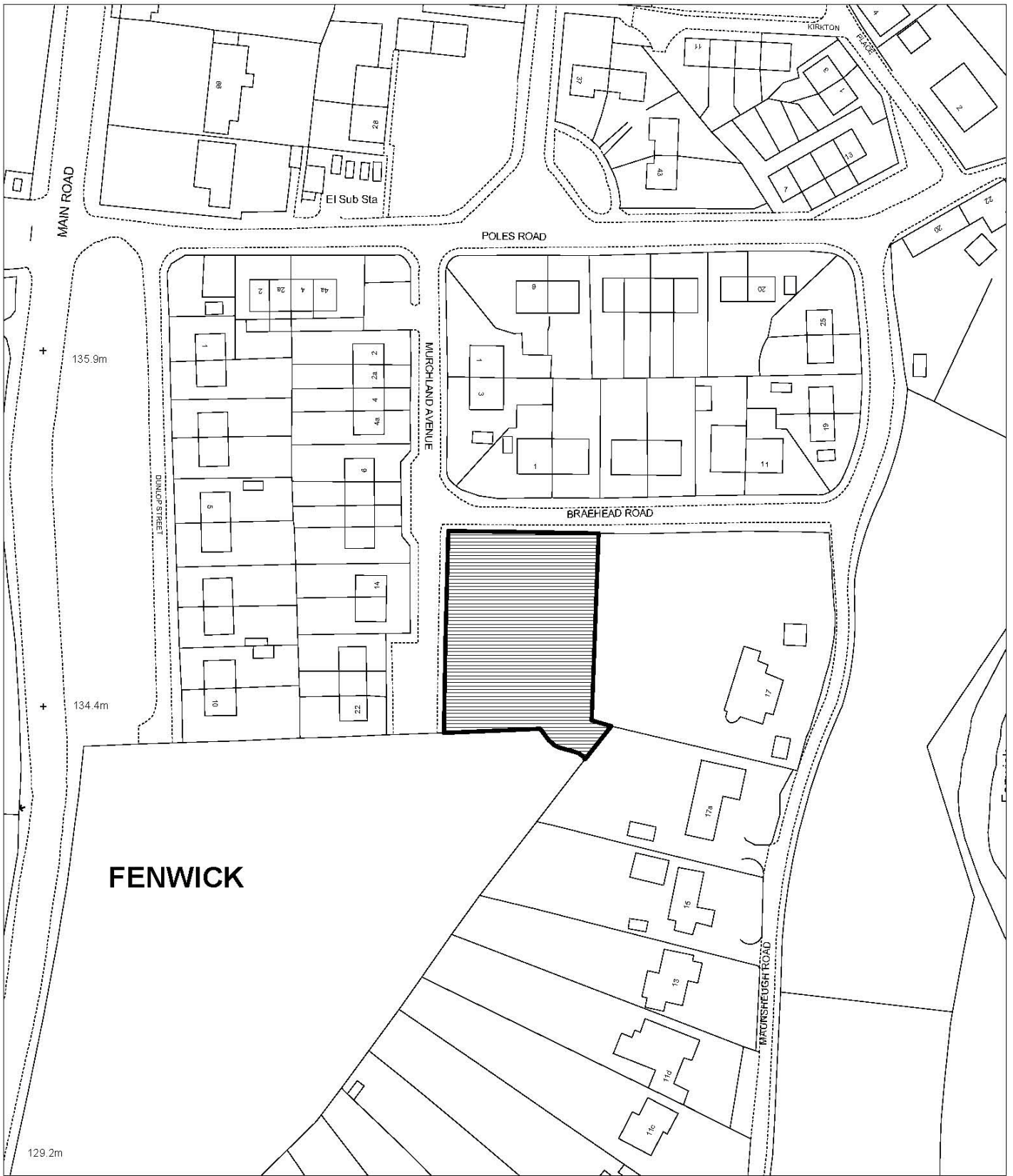
Reason: In the interests of the protected trees on site and residential amenity.

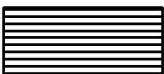
6. The detailed design of the private driveway will require to be hard paved over the full width for a distance of 5 metres from the rear of the new footway.

Reason: To avoid deleterious material being carried on the public road.

Reason for the Decision

The proposed development is consistent with the Development Plan and there are no material considerations of such weight as to merit refusal of the application.



Title/Location	<p>Land Opposite 1 Braehead Road,</p> <p>Fenwick</p> <p>Application No. 10/0043/PP</p>	<p>East Ayrshire Council</p> <p>Planning & Economic Development Division.</p> <p>6 Croft Street</p> <p>Kilmarnock KA1 1JB</p> <p>Tel: (01563) 576790 Fax: (01563) 576774</p> <p>E-Mail : Planning@east-ayrshire.gov.uk</p>
Key	 <p>Application Site</p>	<p>Com Date: 4/6/2010 Checked By</p>





NOT SCALE FROM THIS DRAWING.
ALL DIMENSIONS AND INFORMATION SHOWN ON THIS DRAWING ARE TO BE CHECKED ON SITE BEFORE CONSTRUCTION OR MANIPULATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CORRECTNESS OF ALL DIMENSIONS AND ALL RESTRICTIONS.



archdesign 39 MOXON STREET BARNET EN9 9TS TEL. 0208 447 1957		PROJECT PROPOSED SINGLE RESIDENCE ON BRAEHEAD ROAD AND ADJACENT TO NO 17, MAUNSHEUGH ROAD, FENWICK, AVEESHIDE		THE DRAWING LOCATION & SITE PLAN		DATE 0210		SCALE 1:500	
PROJECT NUMBER 0110		DRAWING NUMBER SK1		REVISIONS		DATE		SCALE	

INSITE 2:30210