

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 7 NOVEMBER 2008

**08/0658/OL: ERECTION OF ONE DWELLINGHOUSE IN OUTLINE
AT 143 ORCHARD STREET, GALSTON
BY MR AND MRS AL AND AS CROWE-CHRISTIE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The application relates to a plot of ground/rear garden to the rear of 143 Orchard Street which is approximately 21 metres in length by 9 metres in width for the provision of one dwellinghouse. Access is to be taken off an existing access lane that runs along the rear of back gardens of Orchard Street, Portland Road and Brewland Street. As the application is in outline, there are no details of the design of the proposed dwellinghouse or layout of the plot.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be largely contrary to 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 of the report, there are material considerations relevant to the determination of this application. The consultation response returned from the Councils Roads & Transportation Division has recommended refusal of the development as the access lane is of insufficient standard to accommodate a dwelling taking full access and egress along it. The points of objection raised by the objectors regarding the access lane reiterate those of the Roads & Transportation Division. Furthermore, they also highlight the impact that this development would have on the amenity of the surrounding area as a result of the unacceptable backland nature of the development and the impacts upon privacy etc. The overall impact upon the surrounding area as a result of the development is considered to be negative in terms of residential amenity,

difficulty of access and potential privacy and overdevelopment concerns. In light of these issues it is considered that the material considerations do not indicate that the application should be approved.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development the application will not require to be referred to the Principal Planning Committee as it would not represent a significant departure from the development plan.

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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation, because it has been the subject of objection from more than ten separate households.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site forms part of the rear garden of number 143 Orchard Street, which is a 1.5 storey dwelling. The site would be accessed from the rear along an access lane that serves the rear gardens of properties on Orchard Street, Portland Road and Brewland Street. To the north of the site is the rear garden of the adjoining property, 141 Orchard Street, to the south is a pedestrian access lane running from Orchard Street to the lane at the rear, between 143 Orchard Street and 115/117 Brewland Street. To the west of the site is the access lane with rear gardens and dwellings of Portland Road on the other side. To the east of the site is the donor dwelling and Orchard Street. The site is bounded by high hedges and fences to the side and rear.

2.2 **Proposed Development:** The application relates to a plot of ground/rear garden to the rear of 143 Orchard Street which is approximately 21 metres in length by 9 metres in width for the provision of one dwellinghouse. Access is to be taken off an existing access lane that runs along the rear of back gardens of Orchard Street, Portland Road and Brewland Street. As the application is in outline, there are no details of the design of the proposed dwellinghouse or layout of the plot.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads Division have recommended refusal of this application on the following grounds:

- The access lane is not adopted by East Ayrshire Council
- There is no footway
- The carriageway is not to a standard adoptable by East Ayrshire Council
- There is no street lighting
- There is no access for emergency vehicles.

Noted. These issues could be incorporated into any reason(s) for refusal should the committee be minded to refuse planning consent.

3.2 Galston Community Council has raised no objections to this development.

Noted.

3.3 Scotland Gas Networks has not responded at the time of writing.

Noted.

3.4 Scottish Water has not responded at the time of writing.

Noted.

4. REPRESENTATIONS

The applicant certified that neighbour notification has been undertaken. One petition has been received in connection with this application signed by 22 persons from 15 separate households objecting to the proposals and in addition there is one individual letter of objection.

The objectors raised the following concerns:-

4.1 Our residential amenity will be affected in terms of restricted sunlight and daylight coming into our garden. There will probably be increased noise levels and lack of privacy which will render our garden impractical to use. The building could also be visually intrusive.

The application is in outline only and therefore it is difficult to make comment on these matters, however the nature of the plot and the layout of the surrounding area is such that there would likely be issues regarding a detrimental impact on privacy to neighbouring properties.

4.2 Devaluation of our property.

This is not a material planning consideration.

4.3 The house may not be accessible by emergency services vehicles and the lane is inadequate for parking/loading and turning.

Noted. It is considered that these issues are central to the consideration of the application and are also highlighted by the Roads & Transportation Division in their consultation response at section 3.1 of this report.

4.4 We have concerns of over development which could lead to a cumulative effect.

Noted. The tight nature of the plot would be likely to lead to an overdevelopment of the plot.

4.5 There is no specification in term of height, width, structure, design and materials.

The application is in outline only and the applicant is not required to submit these details. Applications for outline planning consent seek to establish the principle of the proposed development and if granted, a further revised matters application would consider the design and plot layout details.

4.6 Parking availability is already restricted to residents, a further house would cause more congestion.

Noted. The access lane is considered to be of insufficient standard to accommodate a dwellinghouse served solely by this lane as the Council's Roads & Transportation Division have highlighted in their recommendation that planning consent be refused.

4.7 We are currently having a bad experience of planning to no 137.

This is not a material planning consideration.

4.8 Would not like to see boundary hedge between no 143 and 141 being removed. Hedgehogs live in the garden and wildlife in general will be disrupted.

The boundary hedge is a private legal matter between both parties. It is considered that the use of the rear garden for a dwellinghouse would not significantly affect wildlife.

4.9 Attention is drawn to the number of objections/level of support against the proposal.

The number of objections alone is not a material planning consideration rather it is the content and points raised that are relevant.

4.10 The proposal does not meet the provisions of SPP1 as one of its main objectives is to guide development to the right places.

The Councils local plan generally supports the sub division of plots within settlement boundaries subject to various criteria and therefore this type of development would in principle comply with SPP1. In this instance however the proposal fails to accord with these criteria and is therefore contrary to local plan policy rather than the overarching thrust of SPP1 as outlined in Section 5 of this report.

4.11 Neighbour notification was two days late and the time period is short for the submission of objections.

The applicant completed the neighbour notification certificate to confirm that notification had been undertaken. The two week period for neighbour notification is a statutory regulation. It is open to the Planning Authority, subject to any extenuating circumstances, to consider the submission of 'late' objections. In this instance it is considered that neighbour notification was adequately served in accordance with the statutory requirements.

4.12 It is environmentally unfriendly for open spaces to be taken up by buildings and could force people to look to the countryside for open spaces causing impacts there.

The proposal is for a plot in a rear garden in an established residential area. It is considered that the proposal would not adversely effect the natural environment or force people to look at the countryside for open space as the application site is currently private rear garden ground.

4.13 There are designated areas in Galston for dwellings that have more thought put into them - it is questionable whether this plot would be one of them.

Each case is taken on its own merits and the Council is obliged to review the merits of each planning application it receives.

4.14 Similar property and garden ground has already been refused planning permission in Orchard Street and it would be unfair if one fails and one passes.

Each case is taken on its own merits and the Council is obliged to review the merits of each planning application it receives.

4.15 When people bought their houses in Orchard Street, they wanted the larger garden. They did not envisage the possibility of houses going up either side of them. When the houses go up for sale one of their main attractions to viewers is their gardens.

The planning system allows for applications to be submitted to the relevant Local Authority for developments such as now proposed. The merits of each application must be considered and an appropriate decision taken by the Planning Authority. The "saleability" of a house is not a material planning consideration.

4.16 A new house built at this site would look out of place because it would be sandwiched between red sandstone houses and council structured houses.

The application is for outline planning consent and no material finishes have been suggested. Such matters would be addressed at the reserved matters stage if planning consent was granted in outline.

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 (AJSP) and the Adopted East Ayrshire Local Plan (EALP).

Ayrshire Joint Structure Plan (AJSP)

5.2 There are no relevant policies within the Ayrshire Joint Structure Plan and the application therefore falls to be assessed against the East Ayrshire Local Plan.

East Ayrshire Local Plan

5.3 Policy RES 5 states 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;

- (ii) The proposal meets all the design requirements of the Council and does not create unacceptable damage to the amenity of surrounding properties; and
- (iii) Acceptable levels of privacy are maintained to neighbouring properties and to the new housing proposed.

Backland development (i.e. the erection of any dwellinghouse situated to the rear of an existing building and/or without a proper road frontage) will not be permitted where, in the opinion of the Council, this would adversely affect the amenity of the area, the setting of either the proposed or original building on the site, or the amenity of neighbouring properties.

It is considered that the proposal does not meet the layout requirements of the Council and is not in keeping with the residential character of the area as the proposed dwelling would front onto the access lane, a situation that is not replicated over the entire length of the lane. It is considered that the privacy of the neighbouring properties is likely to be affected, particularly number 141 Orchard Street.

It is noted that the proposal is backland development. The proposed dwelling would front onto the rear access lane and it is considered that the amenity of the surrounding area would be adversely affected. This situation currently does not exist and would be inappropriate in relation to the established residential layout. Further to this it is considered that the setting of the donor dwelling would be adversely affected as there is no evidence to indicate that the plot was designed to be sub divided with the rear (proposed) plot facing onto what is only an access lane for the surrounding properties. Whilst each application must be considered on its own merits, it is probable that any approval in this case would be cited as supporting similar proposals in the vicinity which would be equally damaging to the amenity of the area.

5.4 Policy RES 22 states that all developers will require 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.

As the proposal is in outline it is difficult to assess the levels of garden ground able to be given over to the donor and proposed properties, however the plot size indicated on the proposed plans that accompany the application, suggests that it would be difficult to accommodate a dwellinghouse, private open space and adequate parking provision. This also has an affect on the donor dwelling where private open space is considerably reduced and all parking would be to the front of the dwelling on Orchard Street which is not in-keeping with the properties in the surrounding area.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, letters and petition of representation, the impact on the amenity of the area and SPP1.

Consultation Responses

6.2 The comments of the Councils Roads & Transportation Division have particular relevance to this case as a recommendation for refusal has been submitted. The access lane is not of a sufficient standard to serve the dwelling unlike the other properties that have two separate means of access to the dwelling. There are accordingly road safety issues as the access lane is of insufficient quality with no footway and no street lighting present. The difficulty of access for emergency services vehicles is also a major concern.

Representations

6.3 The representations reiterate the points made by the Councils Roads & Transportation Division in addition to the policy concerns expressed at Section 5 above concerning the access arrangements, the size of the plot and the unacceptable backland nature of the site. Other points regarding value of housing etc are not material planning considerations.

Impact on the Amenity of the Area

6.4 It is considered that the proposal would bring an unacceptable impact as the access lane is of insufficient standard to service the dwelling, and the setting of the dwelling would be inappropriate as it is unacceptable backland development at the rear of the existing dwelling. This would have a detrimental affect on the residential amenity and privacy of neighbouring properties and the surrounding area in general.

SPP1 The Planning System

6.5 Amongst its various objectives for the Planning System, SPP1 sets out that the aim of planning is to “ensure that development and changes in land use occur in suitable locations and are sustainable. For the reasons discussed elsewhere in this report, the application site is not a suitable location for a dwelling house.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be largely contrary to 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 of the report, there are material considerations relevant to the determination of this application. The consultation response returned from the Councils Roads & Transportation Division has recommended refusal of the development as the access lane is of insufficient standard to accommodate a dwelling taking full access and egress along it. The points of objection raised by the objectors regarding the access lane reiterate those of the Roads & Transportation Division. Furthermore, they also highlight the impact that this development would have on the amenity of the surrounding area as a result of the unacceptable backland nature of the development and the impacts upon privacy etc. The overall impact upon the surrounding area as a result of the development is considered to be negative in terms of residential amenity, difficulty of access and potential privacy and overdevelopment concerns. In light of these issues it is considered that the material considerations do not indicate that the application should be approved.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development the application will not require to be referred to the Principal Planning Committee as it would not represent a significant departure from the development plan.

Alan Neish
Head of Planning and Economic Development
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. Adopted East Ayrshire Local Plan (2003).

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 07/0973/FL

Site of Proposal:	143 Orchard Street Galston
Nature of Proposal:	Erection of dwellinghouse in outline
Name & Address of Applicant:	Mr And Mrs Al And As Crowe Christie 143 ORCHARD STREET GALSTON AYRSHIRE KA4 8EJ

DPO's Reference: DW/KW

Reason 1: The proposed development would be contrary to Policy RES 5 of the Adopted East Ayrshire Local Plan in that the proposal is not in keeping with the existing residential character of the surrounding area and furthermore would constitute unacceptable backland development that will adversely affect the amenity of neighbouring properties, the setting of the donor dwelling and the general amenity standards of the surrounding area.

Reason 2: The access route to the proposed dwellinghouse is of an insufficient standard to meet the road safety requirements of the Council's Roads & Transportation Division in terms of the non-adopted nature of the road, the lack of a footway and the absence of street lighting.

Reason 3: The proposed access route to the dwellinghouse is of insufficient standard to allow for the free and unimpeded access of emergency service vehicles.