

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 27 MAY 2010**

**02/0733/FL: PROPOSED ERECTION OF 26 PRIVATE DWELLINGS  
AT CATRINE ROAD, SORN**

**APPLICATION BY HOPE HOMES SCOTLAND**

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

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Planning permission is sought for the erection of 26 detached dwellinghouses on the application site and for the formation of the associated residential roads. The proposed dwellinghouses will be of the following types:

- (i) 11 Gretton House Type (3 bedroom, single storey detached dwelling);
- (ii) 8 Lynmouth House Type (4 bedroom, 1½ storey detached dwelling); and
- (iii) 7 Palmerston House Type (4 bedroom, 2 storey detached dwelling).

1.2 The proposed dwellings will be set around a single spine road with two smaller access roads, all terminating in t-shaped turning heads, generally designed to take cognisance of the contours of the development site. Externally the proposed dwellinghouses will be finished in a range of materials including buff, brown and black stone effect wall detailing with a buff or a white render wall finish. All the proposed dwellinghouses will have a grey / black roof tile finish.

1.3 Access to the site will be taken from Catrine Road (B713) approximately 100 metres south-west of Sorn New Bridge. The new residential roads will incorporate visitor parking spaces and traffic calming measures in the form of speed tables.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be held in abeyance until the Solicitor to the Council has concluded an agreement with the applicant in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 addressing the matters noted in Section 7.1 of the report.**

### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, the application is considered not to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to this application which are considered to be supportive of the proposed development.

3.2 In this regard, the inclusion of the site as a Housing Opportunity site in the Alteration to the East Ayrshire Local Plan is a significant material consideration. As there are no objections to this site, policies in the Alteration to the Local Plan should be afforded greater weight.

3.3 There are no significant adverse comments raised by consultees that would suggest that the application be refused and where appropriate, any issues raised can be addressed either by the imposition of appropriate conditions or by means of a Section 75 Agreement as indicated in Section 7 above.

3.4 It is considered that the proposed development in terms of its scale, density, layout, design and use of finishing materials, is acceptable for this site. The implementation of the measures outlined in the applicant's Landscape and Visual Appraisal will assist in mitigating the visual impact of the proposed development in this otherwise rural landscape.

3.5 In continuing consideration of this application, the Committee has sought more detailed information on the proposed footpath link together with an assessment of road traffic impact, primarily as the provision of the footpath across the bridge would result in the narrowing of the existing road carriageway. The Roads and Transportation Service has assessed additional information provided by the applicant and, subject to appropriate conditions or imposition of obligations in a Section 75 Agreement, they offer, as previously, no objections to the proposal from a road traffic or pedestrian safety perspective. The main change to the structure involves raising the parapet by approximately 200mm and for aesthetic reasons it is proposed to raise the height of the cope by reconstructing in sandstone to match the existing materials rather than adding a railing to the top of the cope which could have had a negative impact on appearance.

3.6 Nonetheless, the proposed works to the bridge will require to be the subject of planning and listed building consent applications. In this regard a negative suspensive condition is considered appropriate in this instance to prevent any development taking place on the site until appropriate consents have been secured by the applicant.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development in terms of the principle of the proposed development, the application would require to be referred to the Full Council as it would represent a significant departure from 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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### 02/0733/FL: PROPOSED ERECTION OF 26 PRIVATE DWELLINGS AT CATRINE ROAD, SORN

#### APPLICATION BY HOPE HOMES SCOTLAND

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

## 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application for planning permission which is to be considered by the Local Planning Committee under the scheme of delegation as the proposed development represents a major application in terms of the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 as the development site area exceeds 2 hectares.

## 2. APPLICATION DETAILS

2.1 **Background:** This application was originally lodged for consideration on 18 September 2002 at which time the site was identified in the then emerging East Ayrshire Local Plan as a Residential Development site. However, during the process of the Public Local Inquiry relative to the EALP, the site was removed from the local plan and another site substituted in its place.

2.2 Since then the applicant has requested that the application be sisted (i.e. held in abeyance) until a further review of the housing land supply takes place. In this regard, the site was again identified in the Alteration to the East Ayrshire Local Plan (Finalised Draft with Modifications) 2009 as a Housing Opportunity site but the inclusion of the site was the subject of objection which again prevented the determination of the application. However, this objection has now been formally withdrawn and in these circumstances, the application can now proceed to determination.

2.3 A report on this application was presented for determination by the Southern Local Planning Committee at its meeting on 30 April 2010 at which time, the Committee resolved to continue the application for further consideration in respect of on road traffic impact. Since the meeting, the applicant has provided additional information regarding traffic impact and more definitive proposals with respect to the provision of a footpath link from the proposed development site to link with the footpath network in Sorn village. This is discussed further in Sections 3 and 8 below.

2.4 **Site Description:** The application site lies on the south side of Catrine Road in Sorn and lies some 100 metres south west of the Sorn New Bridge at

the junction of Catrine Road with Mani Street. The site extends to approximately 2.3 hectares and comprises primarily of agricultural land in pastoral use.

2.5 The site is bounded to the north by an existing hedge line and the Catrine Road (B713), by the southern edge of a copse of trees and residential garden boundaries. To the east and west it is bounded tree belts and to the south by further agricultural land in pastoral use. The land rises gently from Catrine Road in a south to north direction, although more steeply in the southern part of the site, with a rise of approximately 14 metres from the low point to the high point.

2.6 **Proposed Development:** Planning permission is sought for the erection of 26 detached dwellinghouses on the application site and for the formation of the associated residential roads. The proposed dwellinghouses will be of the following types:

- (i) 11 Gretton House Type (3 bedroom, single storey detached dwelling);
- (ii) 8 Lynmouth House Type (4 bedroom, 1½ storey detached dwelling); and
- (iii) 7 Palmerston House Type (4 bedroom, 2 storey detached dwelling).

2.7 The proposed dwellings will be set around a single spine road with two smaller access roads, all terminating in t-shaped turning heads, generally designed to take cognisance of the contours of the development site. Externally the proposed dwellinghouses will be finished in a range of materials including buff, brown and black stone effect wall detailing with a buff or a white render wall finish. All the proposed dwellinghouses will have a grey / black roof tile finish.

2.8 Access to the site will be taken from Catrine Road (B713) approximately 100 metres south-west of Sorn New Bridge. The new residential roads will incorporate visitor parking spaces and traffic calming measures in the form of speed tables.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objections subject to conditions as follows:

- (i) Access to the site will require to be taken via internal roads which comply with the Roads Development Guide 1996 and will require Construction Consent. This consent would cover such details as road widths, footways, road construction, street lighting, drainage etc;
- (ii) Junction visibility splay areas of 2.5 metres by 90 are required at the junction of the B713 Catrine Road and no fencing, buildings etc. over 1 metre in height will be allowed within these areas.
- (iv) Parking to the Roads Development Guide 1996 standard will require to be provided for the development; four visitor spaces will be required within the site with 3 curtilage spaces for each 4 bedroom unit and 2 curtilage spaces for each 3 bedroom unit.
- (v) Any garages must be set back a minimum distance of 6 metres from the rear of the public footway / service strip;

- (vi) All private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway / service strip to avoid overcarry of loose material onto the public road;
- (vii) Any gates will require to open inwards, away from the public road;
- (viii) No surface water must be allowed to discharge onto the public road;
- (ix) Prior to the development proceeding on site, the applicant will require to undertake a bridge assessment to ensure their proposal to provide a footway across the River Ayr bridge will not have any adverse effect on the integrity of the structure.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.***

***The developer will require to provide a footpath link from the development site to connect to the existing footpath network in Sorn. This footpath will require to cross the Sorn New Bridge and the Roads and Transportation Division has indicated that a formal assessment of the bridge structure will require to be undertaken in order to establish if the footpath can be accommodated. This assessment has now been undertaken by the applicant. In addition a formal Transport Statement has been submitted in support of the proposed development. The additional information also includes a more definite plan indicating proposals for the formation of a new footpath link across Sorn New Bridge. This primarily involves the narrowing of the existing carriageway on the bridge to accommodate the footpath together with the raising of the bridge parapets in the interests of pedestrian safety.***

***In responding further to the Structural Assessment report and the Transportation Statement, the Roads and Transportation Service has advised of the following matters:***

- ***The developer needs to provide the footway/parapet buffer shown on the submitted plan;***
- ***The developer will require to raise the parapet to protect pedestrians but this will require approval from Historic Scotland and the Planning Authority;***
- ***An approved traffic management scheme will be needed to sign the bridge narrowing; the road narrowing signage is sufficient but the applicant's consultants seem to have changed it slightly from before so it will need to be finalised;***
- ***The bridge assessment has been done and the bridge can cope with the proposal; however parapet standards have changed which will require some re-examination of the proposal .***

***The issue of traffic calming was mentioned at by the Southern Local Planning Committee at its meeting on 30 April 2010 and the Roads***

***and Transportation Service would support this on the B713 along the site frontage on approach to the bridge but there are no details presented to consider.***

***On the basis outlined above, the Roads and Transportation Service states that If suspensive conditions can be applied to the development along the lines as stated above and in line with its previous comments, they would have no objections to the proposed development.***

***In this regard, the matters raised by the Roads and Transportation Service can be addressed by the securing of a Section 75 Agreement with the applicant regarding the footpath provision. Clearly as the proposed footpath provision will require alterations to the existing bridge parapets, no works should be undertaken until appropriate planning and listed building consents are approved for the works to the listed bridge.***

The applicant has also provided information on alternative proposals considered in addressing the provision of the footpath and the alternatives considered include:

(i) Alternative Proposal of Providing a Pedestrian Footbridge: The applicant's consultant confirms that an alternative scheme of providing a new footbridge adjacent to the existing bridge structure has been considered. This alternative has been ruled out on the basis that the new bridge would have a significant adverse affect on the aesthetics of the existing listed structure. In addition, the construction of the additional bridge would require land on either side of the river to land the bridge upon and tie the approaches in to the existing footway network. The land required is not within the applicant's control and the costs associated with the construction of the bridge and acquisition of land would be substantial.

***It is agreed that, while the cost involved in providing a new footbridge is not a material planning consideration, the setting of the listed bridge structure would be significantly impacted by the construction of a footbridge adjacent to it.***

Consideration has also been given to the provision of a footbridge remote from the existing structure but again this would require land outwith our client's control and there would be significant costs associated with constructing the bridge and tying the approaches in to the existing pedestrian network. It would also be difficult to serve the actual pedestrian desire line over the river.

***Noted.***

(ii) Alternative Solution involving Provision of Traffic Signals: An alternative solution was considered by the applicant's consultant during the preparation of the Transport Statement involving the provision of a 2m wide footway on the bridge and traffic signals to control movements across the bridge which would be

narrowed to one-way operation. The option was discounted for a number of reasons which are summarised as follows:

- The provision of traffic signals at this location would give rise to queuing traffic on both the north and south sides of the River Ayr which in turn introduces an element of delay for motorists. There would be a minimum of 52m between the stoplines which gives rise to high intergreen times which in turn would exacerbate the queuing and delay to motorists. These queues could potentially interact with the existing B743 Main Street / B713 Junction which is located approximately 19m from where the stop line would be located for southbound traffic. In these circumstances, it would only take a queue of approximately 4 vehicles before traffic would queue back over the junction giving rise to potential safety issues at this location. The visibility to the stopline and signal head is also greatly reduced due to the junction, with the visibility to the signal reduced to just 20m.
- On the south side of the bridge the major issue is visibility. If a signal head and stopline was to be provided at the approach to the bridge, then the stopping sight distance (SSD) to the stopline should be 90m according to the DMRB TD50/04 (Geometric Layout of Signal Controlled Junctions and Signalised Roundabouts). The maximum visibility that can be achieved on the south approach to the bridge is approximately 33m which is well below standard. The visibility could be improved slightly but this would mean pulling back the stopline from the bridge approach by about 25m which introduces further delay to motorists as it increases the time taken for motorists to pass through the section controlled by the signals.
- There would also be the issue of vehicles queuing back over private access points that exist on the approach to the bridge and we would be concerned about the lack of visibility to queuing vehicles on the approach to the signals.
- Notwithstanding the above technical points, it was considered that the provision of traffic lights could also spoil the aesthetics of the bridge and there are other factors such as the noise of vehicles braking and accelerating for the signals that should be considered.

Taking the above into consideration, it was considered that the alternative option of providing signals at the bridge would in fact create some significant problems some of which would have an impact on safety and would impact negatively upon existing road users. In these circumstances, the currently proposed scheme was selected as it minimised the impact on existing road users while maintaining safety at the bridge for pedestrians and motorists and it does not adversely impact upon the aesthetics of the bridge.

***It is considered that the applicant's preferred proposal for the provision of the footpath bridge represents the optimum solution in terms of addressing road and pedestrian safety while protecting the character and setting of the listed bridge.***

3.2 Sorn Community Council has objected to the proposed development on the basis that the proposed site was the subject of a Local Plan Inquiry,

indicating that it would not be appropriate for the application to be considered at that time. The Community Council also objected to the suitability of the site for such a large number of dwellings and that the 26 dwellings proposed on the site was not consistent with the local plan.

***This objection by the Community Council is clearly out of date given that the application now requires to be assessed against the current development plan (EALP) and the proposed Alteration to the East Ayrshire Local Plan. The assessment against the development plan and the material considerations relevant to this application is given in Sections 5 and 6 below.***

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposed development but indicates that the developer should install an appropriate SUD system to treat and minimise the amount of surface water leaving the site. The use of porous paving / asphalt for car parking and infiltration trenches / French drains for roof water should be considered.

***Conditions and notes can be attached to any consent granted for the proposed development to meet the requirements of SEPA.***

3.4 The Coal Authority and Power Systems have no adverse comments to make on the proposed development.

3.5 The West of Scotland Archaeology Service has advised that although there are no recorded sites of significance within the application boundary, there could be a potential archaeological issue raised by the proposals but WOSAS cannot advise in any great detail. WOSAS has therefore recommended that the applicant undertakes an archaeological assessment of the site with archaeological field evaluation to determine the character and extent of any archaeological remains. The result of such assessment should be submitted to the Council before it reaches a decision regarding the application.

***Given that there are no particular recorded sites within the application boundary, it is considered overly onerous on the developer to meet with the request of WOSAS prior to the determination of the application and, in this regard, it is considered that a suspensive condition can be attached to any consent granted for the site to meet the requirements of WOSAS prior to development taking place on site.***

#### **4. REPRESENTATIONS**

4.1 In addition to the objection from Sorn Community Council, one further letter of representation has been received objecting to the proposed development. The main points of objection are summarised as follows:

4.2 Twenty six dwellinghouse represents a massive increase in percentage terms to the village. At no time is demand for houses so great that so many new houses could be required.

***The Alteration to the East Ayrshire Local Plan Sufficient housing land has been identified in the local plan to accommodate a limited level of residential development which reflects and is commensurate with this designation. Care has also been taken to ensure that future development is in keeping with the size, scale and character of the community. In this regard, the application site has been identified as a new greenfield Housing Opportunity site with a notional capacity of 26 dwellings. The proposal is therefore consistent with the provisions of the Alteration.***

4.3 Any new development should be appropriate in design and scale and sympathetic to the rural location in Sorn which is designated as a Conservation Area.

***The proposed development, in terms of its scale, layout, design and use of finishing materials is acceptable for this location. The application site does not lie within the designated Sorn No. 1 Conservation Area.***

4.4 The village primary school is currently oversubscribed with local children being unable to attend and having to travel to alternative schools.

***This is not a material consideration in the determination of this application as it is for the Council as Education Authority to make appropriate educational provision as may be required in light of the development proposals, albeit that this may not necessarily be within the village of Sorn itself.***

4.5 The erection of 26 more dwellings in Sorn will put considerable strain on the sewage treatment facility in Sorn.

***It is noted that neither Scottish Water nor SEPA has objected to the proposed development. It will be for the developer to meet the requirements of both these consultees in terms of Sewerage and water infrastructure to serve the proposed development.***

4.6 Drainage of surface waters from the proposed area has often caused localised problems with flash flooding in Catrine Road and Pottery lane. Any development that could increase the runoff rate would have serious consequences in this steep valley.

***With regard to the treatment and disposal of surface water from the development site, SEPA has requested the use of a Sustainable Urban Drainage system and appropriate conditions and notes can be attached to any consent granted for the proposed development to***

***ensure that such measures to minimise surface water emanating from the site are implemented as part of the development.***

4.7 The Catrine Road access to the village is a notorious traffic black spot with frequent accidents at the bend before the bridge. The proposed development of 26 new dwellings would increase traffic movements onto an already dangerous road.

***The proposed development has been the subject of a Transport Statement with which the Roads and Transportation Division concurs. The Division does not object to the proposed development on road safety grounds subject to the imposition of appropriate conditions.***

4.8 Pedestrian safety would be compromised on the bridge which has no footpath.

***The developer will require to provide a footpath link from the development site to connect to the existing footpath network in Sorn. This footpath will require to cross the Sorn New Bridge and the Roads and Transportation Division has, following the submission of a Structural Assessment of the bridge and a Transportation Statement, indicated that the proposal to accommodate a link footpath across the bridge is acceptable in road safety terms. The provision of the footpath will require to be secured by means of a Section 75 Agreement. The matter is however further complicated by the fact that Sorn New Bridge is a Category B Listed Building and any alterations to the main fabric of the bridge may require to be the subject of an application for Listed Building Consent.***

4.9 Sightlines up and down this road would be inadequate.

***The developer has submitted amended plans providing sightlines which comply with the Roads Development Guide and in this regard the Roads and Transportation Division has not objected to the development on road safety grounds subject to appropriate conditions.***

4.10 The steep elevated location of the development would cause every nearby dwelling to be overlooked resulting in loss of amenity to existing dwellings. A development of this size will create unacceptable visual intrusion.

***The steeper part of the site lies on the south of the proposed development site away from existing residential properties. In this regard it is not considered that the proposed development will have any significant adverse impact on the privacy or amenity of existing residential properties.***

***The application has also been the subject of a Landscape and Visual Appraisal and the implementation of recommendations within that***

***appraisal will result in measures that will mitigate the impact of the development in the local landscape. These include safeguarding of existing trees within and adjacent to the site, retention and replacing of hedgerows and new tree structure planting on the southern part of the development site. This can be secured by the imposition of appropriate conditions in any consent granted for the development site.***

4.11 Other suitable areas such as brownfield sites should be considered for development before the need to release greenfield sites.

***The application site has been identified for greenfield release as a Housing Opportunity site in the Alteration to the East Ayrshire Local Plan.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 For the purposes of this application the development plan comprises the approved Ayrshire Joint Structure Plan (2007) and the adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 Policy COMM3 (Housing Land Release) states that in allocating sites the three Councils shall manage and programme any greenfield housing land release so as not to prejudice the development of brownfield land.

***It is considered that the proposed development will not prejudice the development of any brownfield land in the locality of Sorn.***

### Adopted East Ayrshire Local Plan (2003)

5.3 Policy RES2 states that proposals to extend the greenfield supply of land for residential development outwith, but adjacent to, the settlement boundaries will not be acceptable unless all of the following criteria are fully satisfied:

- (i) there is a demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area;
- (ii) the site can be demonstrated to be effective and contribute to output during the shortfall period;
- (iii) the proposal meets the terms of the Housing Development Strategy of the Local Plan;
- (iv) road access and all other services and infrastructure can be provided to the standards required by the relevant public and statutory service providers; and
- (v) the proposal accords with the Council's policies with regard to design and layout and has minimal impact on the visual and natural environment.

***The proposed development site lies outwith the existing settlement boundary of Sorn. In this regard the development is therefore not consistent with Policy RES2.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representation received and the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications 2009)

### Alteration to the East Ayrshire Local Plan

6.2 Policy SD3 states that there will be a general presumption that all new development will be located within those area settlements identified with a settlement boundary on the local plan maps, unless the development has a justified need for a countryside location. Development outwith settlement boundaries for which such a need cannot be justified will not receive the support of the Council. Policy SD4 further states that the Council will direct all new development to those development opportunity sites specifically identified on the local plan maps as being suitable for the type of development proposed.

***The proposed development site lies within the settlement boundary of Sorn as proposed in the Alteration to the Local Plan. The development site has been identified as a greenfield release Housing Opportunity site (057H). The proposed development is therefore consistent with the provisions of policies SD3 and SD4.***

6.3 Strategic Policy RES1 states that the Council will encourage and support the residential development of those Development Opportunity Sites identified for housing purposes on the individual local plan maps. The sites identified will be specifically reserved for residential development at the indicative capacities indicated, with development taking place in line with any phasing programme as may be stipulated or agreed for the sites in question.

***The development site has been identified as a greenfield release Housing Opportunity site (057H) with a notional capacity of 26 dwellings. The proposal is therefore consistent with the provisions of strategic policy RES1.***

6.4 Policy RES26 states that all developers for new housing developments will be required to observe the minimum private open space criteria and standards detailed in Schedule 5 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 where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

***It is considered that that the minimum standards for the provision of private open space are met by the proposed development.***

***Nonetheless, the additional dwellinghouses proposed, in the absence of any financial information justifying the additional requirement, are considered to be contrary to the provisions of Policy RES8 of the Alteration to the Local Plan. However, most weight should be given to the adopted Local Plan as there is an outstanding objection to Policy RES 8 of the Local Plan Alteration.***

6.5 Policy RES29 states that the Council will require all potential developers of residential sites comprising four or more houses to make an appropriate financial and/or non-financial contribution towards the provision of any new or expanded facilities, amenities or associated community initiatives as may be required to meet the needs of any future populations introduced to the area as a direct result of the proposed development itself. Developer contributions will be required by means of a Section 75 or other appropriate agreement between the applicant and the Planning Authority.

***The applicant has indicated a willingness to make a developer contribution in respect of the proposed development and this can be secured by means of a Section 75 Agreement. The applicant has however expressed a desire that such contribution made in this regard should be directed towards the upgrading of existing facilities in Sorn village.***

### Consultations

6.6 There are no consultation responses that would suggest that refusal of the application is warranted on the basis of infrastructure provision. The objection by the Community Council is no longer considered valid with the site now being identified as a Housing Opportunity site in the Alteration to the East Ayrshire Local Plan, and this site is no longer the subject of any formal objections.

### Representations

6.7 It is considered that the representations received are to a large degree out of date given the passage of time and the inclusion of the site as a Housing Opportunity site in the Alteration to the East Ayrshire Local Plan. The other points of objection are either not supported by the consultation response, are not valid or are not of sufficient weight to justify refusal of the application.

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

7.1 There are no financial implications for the Council in the determination of this application. However as indicated in sections 3.1 and 4.8 of this report, a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 will require to be entered into regarding the provision of a footpath from

the development site to link to the existing footpath network within Sorn village in the terms indicated elsewhere in this report. The Agreement would also encompass the offer of a Developer Contribution as referred to in section 6.5 above.

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report, the application is considered not to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 of the report, there are material considerations relevant to this application which are considered to be supportive of the proposed development.

8.2 In this regard, the inclusion of the site as a Housing Opportunity site in the Alteration to the East Ayrshire Local Plan is a significant material consideration. As there are no objections to this site, policies in the Alteration to the Local Plan should be afforded greater weight.

8.3 There are no significant adverse comments raised by consultees that would suggest that the application be refused and where appropriate, any issues raised can be addressed either by the imposition of appropriate conditions or by means of a Section 75 Agreement as indicated in Section 7 above.

8.4 It is considered that the proposed development in terms of its scale, density, layout, design and use of finishing materials, is acceptable for this site. The implementation of the measures outlined in the applicant's Landscape and Visual Appraisal will assist in mitigating the visual impact of the proposed development in this otherwise rural landscape.

8.5 In continuing consideration of this application, the Committee has sought more detailed information on the proposed footpath link together with an assessment of road traffic impact, primarily as the provision of the footpath across the bridge would result in the narrowing of the existing road carriageway. The Roads and Transportation Service has assessed additional information provided by the applicant and, subject to appropriate conditions or imposition of obligations in a Section 75 Agreement, they offer, as previously, no objections to the proposal from a road traffic or pedestrian safety perspective. The main change to the structure involves raising the parapet by approximately 200mm and for aesthetic reasons it is proposed to raise the height of the cope by reconstructing in sandstone to match the existing materials rather than adding a railing to the top of the cope which could have had a negative impact on appearance.

8.6 Nonetheless, the proposed works to the bridge will require to be the subject of planning and listed building consent applications. In this regard a negative suspensive condition is considered appropriate in this instance to

prevent any development taking place on the site until appropriate consents have been secured by the applicant.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be held in abeyance until the Solicitor to the Council has concluded an agreement with the applicant in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 addressing the matters noted in Section 7.1 of the report.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development in terms of the principle of the proposed development, the application would require to be referred to the Full Council as it would represent a significant departure from policy.

**Alan Neish**  
**Head of Planning and Economic Development**

20 May 2010  
HM/HM  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form, Plans and accompanying supporting information.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letter of representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications, 2009)
7. Approved Ayrshire Joint Structure Plan (2007).

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

***Implementation Officer: Dave Morris***

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0733/FL

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Location	Catrine Road Sorn KA5 6JA
Nature of Proposal:	Proposed erection of 26 private dwellings
Name and Address of Applicant:	Hope Homes Scotland Watson Terrace Drongan KA6 7AB
Name and Address of Agent	

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PPO's Ref: Hugh Melvin

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

1. No development shall commence on site until the applicant has secured appropriate planning and listed building consents for alterations to Sorn New Bridge to allow for the provision of a new link footpath across the bridge to link with the existing footpath network in the vicinity of the application site.

REASON: To ensure that the proposed development can be served by an appropriate pedestrian link to the existing footpath network in the locality of the development site in the interests of public safety.

2. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

REASON: In order to identify and record any archaeological resource that may be present on site, prior to disturbance or destruction by the proposed operations.

3. Prior to the commencement of any development on site, the applicant shall submit to and have approved by the Planning Authority details and samples of the proposed external wall finishing materials and roof finishing materials to be used in the proposed new dwellinghouses and proposed finishes to shared driveways and accesses.

REASON – In the interests of visual amenity.

4. Access to the site shall be taken via internal roads which comply with the Roads Development Guide 1996.

REASON: In the interests of public road safety.

5. Junction visibility splay areas of 2.5 metres by 90 metres shall be formed and thereafter maintained at the junction of the B713 Catrine Road with no obstruction to visibility over 1 metre in height being allowed within these areas.

REASON: In the interests of public road safety.

6. Parking to the Roads Development Guide 1996 standard shall be provided for the development with 4 visitor spaces provided within the site and with 3 curtilage spaces for each 4 bedroom dwelling and 2 curtilage spaces for each 3 bedroom dwelling being provided.

REASON: In the interests of public road safety and residential amenity.

7. All proposed future garages shall be set back a minimum distance of 6 metres from the rear of the public footway;

REASON: In the interests of public road safety.

8. All private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to prevent overcarry of loose material onto the public road.

REASON: In the interests of public road safety.

9. Any gates shall open inwards, away from the public road.

REASON: In the interests of public safety.

10. No surface water shall be allowed to discharge onto the public road;

REASON: In the interests of public road safety.

11. The proposed foul drainage of the site shall be to the complete satisfaction of the Scottish Environment Protection Agency and Scottish Water.

REASON: In the interests of public health and safety.

12. Prior to the commencement of development on site, the applicant shall submit details of a sustainable urban drainage system (SUDS) for the approval of the Planning Authority in consultation with Scottish Water and SEPA. The details of the SUD system shall include any proposed safety fencing or means of enclosure and details of the proposed future maintenance regime.

REASON: In the interests of public safety and pollution prevention.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (Scotland) Order 1992, (or any Order or enactment replacing this), any future garages to be erected within the development site shall be of permanent construction and finished to match the dwellinghouses to which they relate.

REASON – To enable the Planning Authority to retain control over future development of the site in the interests of residential and visual amenity.

14. Construction works on site shall not be carried out prior to 0800 hours and after 1700 hours on Mondays to Fridays, only between 0800 and 1300 hours on Saturdays, and not at any time 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.

15. Notwithstanding the plans hereby approved, and the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no boundary walls or fencing shall be constructed along the frontage or other boundaries of each plot without the prior written approval of the Planning Authority.

REASON: In the interests of visual amenity and to ensure continuity and uniformity of boundary treatment

16. Prior to the commencement of development on site, the applicant shall submit to and have approved by the Planning Authority a detailed landscaping plan for the development site which shall implement in full the recommendations contained within the Landscape and Visual Appraisal (April 2008) by Ann Nevett Landscape Architects. The plan shall provide details of the following matters:

- (i) the numbers, species and sizes of trees and shrubs to be planted as core structure planting within the development site;
- (ii) the identification of those trees within site to be retained including the measures to be implemented to protect these from construction and development works; and
- (iii) the details for the future maintenance of these open space areas and areas of tree planting

The landscaping plan as approved shall thereafter be implemented simultaneously with the development and construction of the proposed dwellinghouses hereby approved.

REASON – In the interests of visual amenity and to ensure that core structure planting for this part of the development site is implemented within an acceptable timescale in the interests of residential amenity.

#### **NOTES TO APPLICANT**

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Division can be contacted on Tel 01563 555330. The internal roads must comply with the Roads Development Guide 1996. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, internal junction visibilities etc.
2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site and to confirm the 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.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may

require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

- 4, The applicant should make early contact with Power Systems with regard to the protection or diversion of apparatus that may be affected by the proposed development.
5. All waste to be removed from the site (construction waste etc.) shall be removed by a licensed waste carrier to an appropriately licensed or exempted site.

**The Council has granted this consent for the following reasons:**

Although the proposal is contrary to the Development Plan the material considerations relevant to this application suggest that the application should be approved. In particular, the application site is identified in the Alteration to the East Ayrshire Local Plan as a Housing Opportunity site and in this regard this carries significant weight in the determination of the application. It is therefore appropriate to approve the proposals subject to an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997.