

**EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 08 DECEMBER 2006**

**06/0546/OL: PROPOSED RESIDENTIAL DEVELOPMENT  
AT LAND AT SAMSON AVENUE, KILMARNOCK  
BY 21<sup>ST</sup> AYRSHIRE SCOUTS**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for residential development of the site. An indicative layout had been submitted proposing two 2-storey dwellinghouses with the front elevation of the dwellinghouses orientated to New Mill Road.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons detailed in the report.**

**3. CONCLUSIONS**

3.1 As indicated in Section 5 of this report the development is 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 and they are not supportive of the development. The development is contrary to Policy RES4 and ENV7 of the Adopted EALP and it is not supported by the Council's Roads Division Flooding Section nor by SPP7 Planning and Flooding. The proposed development is unacceptable in an area susceptible to a high risk of flooding and furthermore there is a culvert in the middle of the site which requires to be maintained and inspected at regular intervals thereby preventing any blockages in the culverted watercourse.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application would require to be referred to the Development Services Committee as there would be a significant breach of Council policy.

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

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

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BY 21<sup>ST</sup> AYRSHIRE SCOUTS

### Report by Head of Planning, Development and Building Standards

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Central Local Planning Committee under the scheme of delegation because it is recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is 650m<sup>2</sup> and includes open ground and a dilapidated hall which would be demolished. From its north boundary the site slopes gently south. It is bounded on the north by residential dwellings, to the south and east by Scott Ellis Playing Fields and beyond that the River Irvine, and to the west by the Scout Hall.

2.2 **Proposed Development:** Outline planning permission is sought for residential development of the site. An indicative layout had been submitted proposing two 2-storey dwellinghouses with the front elevation of the dwellinghouses orientated to New Mill Road.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division in terms of their traffic responsibility have no objections to the development proposal subject to conditions, regarding a footway, removal of hedges and trees and paving of the driveway.

***The requirements of the Roads Division in this regard could be addressed by attaching conditions and a note to any grant of planning permission.***

3.2 East Ayrshire Council's Roads and Transportation Division in terms of their flooding responsibility have recommended refusal of the application for two reasons. Firstly, the application site lies within the Queens Drive Flood Risk Area. The Flood Risk Assessment indicates that the entire site will be inundated during a 1 in 100 year flood event which renders residential development of the site unacceptable. Secondly, there is a main surface water culvert running north-south through the middle of the site. The culvert is a concrete pipe measuring 900 mm in width and is positioned 500 mm below ground level; this is according to Scottish Water plans. In order to comply with flooding regulations the Roads (Flooding) Division requires access to the pipe for maintenance and inspection purposes and for this reason it is not permitted to build or work within 5 metres of the pipe.

***The comments of the Council's Roads Division Flooding Section are material in the determination of this application.***

3.3 Scottish Water have no objections to this planning application however this does not guarantee a connection to Scottish Water infrastructure. A subsequent application should be made to Scottish Water should full planning permission be granted.

***The requirements of Scottish Water could be addressed by attaching a note should planning permission be granted.***

3.4 Piersland and Bentinck Community Council have not responded to their consultation letter at the time of writing this report.

***Noted.***

3.5 Scottish Environment Protection Agency have no adverse comments to make regarding the proposed development.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 There is one objection to the proposed development from the Council's Roads Division which is detailed in 3.2 of the report.

#### **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).  
Approved Ayrshire Joint Structure Plan (AJSP)

5.2 There are no policies in the Ayrshire Joint Structure Plan that are particularly applicable to this proposal.

#### East Ayrshire Local Plan

5.3 Policy RES4 encourages the sympathetic residential development of gap, infill or other redevelopment sites, including those sites not specifically safeguarded or identified for particular development purposes. Developments will be assessed against a set of four stated criteria as follows:-

- (i) Impact on the surrounding natural and built environment and adjacent uses;

***The principle of housing at this location is acceptable in principle.***

- (ii) Transportation and infrastructure implications;

***The Roads Division in terms of traffic have no objections to the proposed development. However they have indicated that the development is located in the 1 in 100 year flood risk area and any development on this site would be at high risk of flooding. Also there is a culvert running through the middle of the site which the Roads Division require access to for the purposes of maintaining and inspecting the infrastructure.***

- (iii) Compatibility with surrounding densities and housing types.

***The indicative layout of the development is compatible with the surrounding residential development.***

- (iv) Compliance with the Council's Development Promotion and Design Guidance.

***The proposed development would be assessed against the Council's Design Guidance at the detailed stage.***

5.4 Policy RES22 requires that all developers observe the minimum private open space standards of 100 sq metres of rear garden ground.

***The proposed residential development meets the above criteria within the context of open space provision.***

5.5 Policy ENV17 is also relevant and states that in areas that are known to have flooded in the past, a precautionary approach to development will be pursued. The Council will require any developer wishing to develop land which has been known to flood in the past to fully investigate the implications of flood risk on their proposals and on adjoining land and property. Appropriate flood prevention measures should be incorporated into the design of their proposals so as to remove or reduce to an acceptable minimum, any adverse effects from flooding that may be experienced.

***It is the combination of flood risk and the presence of the surface water culvert which precludes the development of this site. The site could not be developed to incorporate flood prevention measures whilst at the same time accommodating the issues raised by the presence of the surface water culvert. Therefore the development is contrary to Policy ENV17.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation replies which are detailed in Section 3 of the report and SPP7 Planning and Flooding.

### Consultation Replies

6.2 The consultation responses are detailed in Section 3 of the report. The Council's Roads Division in terms of their flooding responsibility have responded with information material to the determination of this application. They indicate that the development is located in the 1:100 year risk area and is at risk of flooding. Furthermore there is a culvert in the middle of the site which the Roads Division require to maintain and inspect and therefore no building or other work is permitted within 5 metres of the pipe.

### SPP7: Planning and Flooding

6.3 SPP7 identifies Flood Risk as a material planning consideration. It states that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the probability of flooding elsewhere.

***The application site falls within an area which has a 1:100 year flood risk; this is considered to be a high risk. These areas are generally not suitable for additional development particularly residential development unless flood prevention/alleviation is proposed alongside the development. No such measures are present in this location.***

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

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

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of this report the development is 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 and they are not supportive of the development. The development is contrary to Policy RES4 and ENV7 of the Adopted EALP and it is not supported by the Council's Roads Division Flooding Section nor by SPP7 Planning and Flooding. The proposed development is unacceptable in an area susceptible to a high risk of flooding and furthermore there is a culvert in the middle of the site which requires to be maintained and inspected at regular intervals thereby preventing any blockages in the culverted watercourse.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons detailed in the report.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application would require to be referred to the Development Services Committee as there would be a significant breach of Council policy.

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

27 November 2006  
(WH/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plan.
2. Statutory Letters/Certificates.
3. Consultation Replies.
4. Approved Ayrshire Joint Structure Plan.
5. Adopted East Ayrshire Local Plan.
6. Scottish Planning Policy (SPP)7: Planning and Flooding.

Anyone wishing to inspect the above papers please contact Willie Harris, Planning Officer, on 01563 576787.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0546/OL

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Site of Proposal: Land at Samson Avenue  
KILMARNOCK  
KA1 3EB

Nature of Proposal: Proposed Residential Development

Name & Address of Applicant: B Morton  
21<sup>st</sup> Ayrshire Scouts  
2 Esson Place  
KILMARNOCK  
KA3 1RU

Name & Address of Agent: Munro Architects  
23 Portland Road  
KILMARNOCK  
KA1 2BT

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DPOs Reference: WH/MMM

The above OUTLINE application should be refused for the following reasons:-

1. The proposed residential development is contrary to Policies RES4 and ENV17 of the Adopted EALP as the development is subject to a high flood risk and there is a culvert in the middle of the site which requires to be maintained and inspected at regular intervals. Development of the site as indicated by the applicant would prevent such inspection.
2. The proposed residential development is contrary to SPP7 "Planning and Flooding" which advises against the grant of planning permission for residential development in high risk flood areas; 1:100 year flood events; without acceptable flood prevent/alleviation measures proposed alongside the development.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S**

**PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**