

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 10 NOVEMBER 2006**

**06/0544/FL: PROPOSED ERECTION OF ONE DWELLINGHOUSE  
AT THE REAR OF 18 SOUTH HAMILTON STREET, KILMARNOCK  
BY MR PETER K DUFF**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Detailed planning consent is sought for the erection of one dwelling house. The proposed dwelling house is one and a half storey in height with pitched roof and external materials comprising buff facing brick, matching the neighbouring dwelling at the rear of 14 South Hamilton Street and natural slates to the roof.

1.2 The first floor accommodation has two dormer windows to the front of the dwelling whilst the shower room has a conservation roof light to the rear and the fourth bedroom/study has a conservation roof light to the front of the dwelling. The window fenestration to the ground floor incorporates window bands and window mullions, in-keeping with the traditional dwellings in the immediate vicinity. The proposed dwelling also incorporates a chimney to the northern gable.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the enclosed sheet.**

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise.

3.2 As indicated in Section 6 of the report, there are material considerations relevant to this application. Whilst the objector's concerns are noted their concerns relative to the siting and design of the proposed development are not considered of sufficient weight to merit the refusal of the application. It is also considered that the proposed development has been designed to have a

minimum impact on any loss of sunlight to the neighbouring dwelling. In relation to their concerns in terms of road safety these concerns have not been echoed by the Roads Division. The design, layout and height of the proposed dwellinghouse will not have an adverse impact in terms of overlooking or be visually intrusive relative to adjacent properties. The proposed development is considered to be of an acceptable design and layout for the Conservation Area.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee as there would be no 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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### 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 a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to objections.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site extends to some 420 square metres in area and currently forms part of the rear garden at the residential property at 18 South Hamilton Street. The site is accessed from Charles Place and is bounded by residential dwellings to all sides. Recently constructed dwelling houses are located to the rear of 20 and 14 South Hamilton Street. The application site is located within the Dundonald Road Conservation Area.

2.2 **Proposed Development:** Detailed planning consent is sought for the erection of one dwelling house. The proposed dwelling house is one and a half storey in height with pitched roof and external materials comprising buff facing brick, matching the neighbouring dwelling at the rear of 14 South Hamilton Street and natural slates to the roof.

2.3 The first floor accommodation has two dormer windows to the front of the dwelling whilst the shower room has a conservation roof light to the rear and the fourth bedroom/study has a conservation roof light to the front of the dwelling. The window fenestration to the ground floor incorporates window bands and window mullions, in-keeping with the traditional dwellings in the immediate vicinity. The proposed dwelling also incorporates a chimney to the northern gable.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Scotland Gas Networks and East Ayrshire Council's Roads and Transportation Division have no adverse comments to make regarding the

proposed development.

***Noted.***

3.2 The Scottish Environment Protection Agency (SEPA) and Grange Howard Community Council have not responded to their consultation letter at the time of writing this report.

***Noted.***

3.3 Scottish Water have no objections to the proposed development although have advised that a totally separate drainage system will be required with the surface water discharging to a suitable outlet. The developer should consider utilising a sustainable urban drainage (SUDS) system.

***Appropriately worded conditions and notes can be attached to any grant of planning consent to meet the requirements of Scottish Water with regard to SUDS.***

3.4 The Architectural Heritage Society (AHSS) have no objection to the principal of residential development of this site although feel the exaggerated roof depth and minimalised squat windows falls short of what should be possible for a contemporary version of the vernacular idiom.

***It is considered that the proposed design and external materials are acceptable in this location and are in-keeping with both the traditional buildings and the recently constructed dwellings in the vicinity.***

#### **4. REPRESENTATIONS**

4.1 There are three objectors to the proposed development and the grounds of objection are as follows:

4.2 There will no doubt be further development in the rear of 16 South Hamilton Street in the future so the Council must set a precedent now or Charles Street will be a mismatch of plots that have no purpose or part in a traditional street layout.

***Each application must be considered on its individual merits and approval of this proposal offers no assurance that development will be appropriate on neighbouring land.***

4.3 The proposed dwelling will be extremely close to the front of their home, which currently has no properties directly overlooking it. The distance between the proposed property and their home would be 17.74 metres, blocking all daylight from the ground floor of their property.

***It is not considered that the proposed dwelling would lead to a reduction in daylight reaching the objector's dwelling as the sun rises in the east and sets in the west, moving in a southerly direction. The frontage of the objector's dwelling faces due west. It is not considered that the distance between the proposed and existing dwelling is unacceptable in this locality.***

4.4 Their property is an original Victorian house and already has two modern dwellings built extremely close to it and built by the applicant.

***This is not a material consideration in the determination of this planning application.***

4.5 The proposed dwelling will be unsightly and detrimental to the area as the proposed dwelling is proposed to be situated forward of the neighbouring dwelling at 9 Charles Place. The Council should ensure that this area remains uniformed as it is a Conservation Area.

***It is considered that the design, positioning, height and external materials of the proposed dwelling are in-keeping with the Conservation Area and surrounding built environment. In relation to the building line of the proposed dwelling, there is not a strong building line on the west of Charles Place with none of the recent and traditional dwellings on the street sharing the same building line.***

4.6 They object on the grounds that the Council should upgrade the water supply to Charles Place as the water pressure in the vicinity is very poor.

***Scottish Water, not East Ayrshire Council, are responsible for the provision of water supply infrastructure. As noted at Section 3.3 above Scottish Water have no objections to the proposed development.***

4.7 There is no consideration for parking provision for the existing dwelling at 18 South Hamilton Street. Another front garden will be lost for off-street parking.

***The applicant amended the application site to include parking provision for the existing house at 18 South Hamilton Street to the front of the existing dwelling. The provision of parking for the existing dwelling was a requirement of the Roads and Transportation Division and is considered acceptable.***

4.8 The proposed development is not in keeping with the character of the Conservation Area as the area is relatively low density and typified by long linear gardens.

***As noted at 4.5 above it is considered that the design, positioning, height and external materials of the proposed dwelling are in-keeping with the Conservation Area and surrounding built environment. Whilst many of the traditional dwellings in the vicinity do have long linear gardens there are a number of dwellings within the immediate vicinity which do not have such generous house plots. It is not considered that the proposed dwelling would have an adverse impact on the low-density character of the vicinity.***

4.9 They will oppose the lowering of the wall adjoining their property to provide visibility onto the road.

***This is a legal matter for the developer and objector and is not a material consideration in the determination of this application.***

4.10 The proposed development will obstruct light from their garden and they would experience a loss of privacy.

***The proposed development would result, to a certain degree, in a loss of sunlight to the rear of the adjoining garden in winter time and late evening. As the proposals are for a one-and-a-half storey dwelling measuring approximately 7.4 metres in height it is considered the proposed dwelling has been designed to minimise the impact of any loss of sunlight to the rear garden ground at the neighbouring dwelling. There are no windows to either gable of the proposed dwelling whilst there is an existing traditional brick wall measuring approximately two metres in height which would prevent any loss of privacy to the adjoining dwelling.***

4.11 They object on road safety grounds as they feel that another dwelling with associated cars would increase the amount of traffic on this already narrow street which has no pavement.

***As noted at 3.1 above the Roads and Transportation Division have no objections to the proposed development.***

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

5.1 Sections 25 and 37 (2) of the Town & 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 2003 (EALP).

#### Approved Ayrshire Joint Structure Plan

5.2 This application does not raise any strategic issues that would require consideration against the Structure Plan.

#### Adopted East Ayrshire Local Plan

5.3 Policy RES 5 relates to the subdivision 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 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 proposal.

***The siting, design and layout of the proposed development is considered acceptable and compatible with the dwellings on Charles Street and South Hamilton Street. The proposed dwellinghouse has been designed and sited to minimise its impact on the amenity of adjacent residential properties.***

5.4 Policy RES 22 is also relevant and states that new detached residential properties must have a minimum provision of 100 square metres in private secluded garden.

***The proposed development meets the terms of Policy RES 22, whilst the donor property will also comply with the terms of the above policy .***

5.5 Policy ENV 7 requires developers to comply fully with the Council's Design Guidance whereby the layout and house type for proposed individual residential development will require to reflect and respect the built form of the surrounding area and aim to integrate with existing surrounding land uses. House design shall recognise and reflect the scale, design features, rhythm of doors and windows, storey height, density and materials of surrounding buildings. New housing development should not result in an unacceptable invasion of privacy or overlooking of properties adjoining the site. The minimum distance between windows of habitable housing in facing houses should be not less than

18 metres. The height and position of houses must not have an oppressive, overshadowing or visually intrusive impact on neighbouring properties.

***The proposed dwellinghouse has been designed and sited to minimise its impact on adjacent houses. The proposed dwellinghouse is set within an established residential area enclosed by high boundary brick walls, which are a traditional feature of the area. The proposed design of the dwellinghouse is considered to be acceptable for the Conservation Area and surrounding residential area. It is considered that the proposed dwellinghouse will not have an oppressive or visually intrusive impact on adjacent properties and that any loss of light to adjacent gardens does not amount to a level of detriment sufficient to refuse the application.***

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

6.1 The principal material considerations relevant to the determination of this application are the consultation responses, letters of representation detailed in Sections 3 and 4 of the report and the planning history of the site.

### Consultation Replies and Letter of Representation

6.2 None of the statutory consultees have raised any negative issues that would materially affect the determination of this application. The concerns of the objectors are not of such planning merit as to warrant refusal of this application and have not been echoed by the Roads Division.

### Planning History

6.3 Planning Application 96/0149/FL; Proposed erection of one dwellinghouse with integral garage at Land to rear of 14 South Hamilton Street/Charles Place, Kilmarnock, by J & A McDougall Ltd.

***Approved under delegated powers 19 July 2006.***

6.4 Planning Application 03/0305/OL; Proposed erection of dwellinghouse and garage in rear garden ground at 20 South Hamilton Street, Kilmarnock, by Mr Robert Lyall.

***Approved under delegated powers 22 May 2003.***

6.5 Planning Application 03/0900/RM; Proposed erection of one and a half storey dwellinghouse at 20 North Hamilton Street, Kilmarnock, by Mr and Mrs J Robertson.

***Approved by Central Local Planning Committee 02 April 2004.***

## **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 the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise.

8.2 As indicated in Section 6 of the report, there are material considerations relevant to this application. Whilst the objector's concerns are noted their concerns relative to the siting and design of the proposed development are not considered of sufficient weight to merit the refusal of the application. It is also considered that the proposed development has been designed to have a minimum impact on any loss of sunlight to the neighbouring dwelling. In relation to their concerns in terms of road safety these concerns have not been echoed by the Roads Division. The design, layout and height of the proposed dwellinghouse will not have an adverse impact in terms of overlooking or be visually intrusive relative to adjacent properties. The proposed development is considered to be of an acceptable design and layout for the Conservation Area.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated on the enclosed sheet.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

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

01 November 2007  
(BD/MMM/RH)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Letters of Representation.
4. Adopted East Ayrshire Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. Planning application no's 96/0149/FL, 03/0305/OL and 03/0900/RM

Anyone wishing to inspect the above papers please contact Barry Douglas on 01563 576770.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0544/FL

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Site of Proposal: Rear of 18 South Hamilton Street  
KILMARNOCK

Nature of Proposal: Proposed Erection of Dwellinghouse

Name & Address of Applicant: Mr Peter K Duff  
18 South Hamilton Street  
KILMARNOCK  
KA1 2DM

Name & Address of Agent:

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DPOs Reference: BD/MMM/RH

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

1. The proposed development shall be carried out in accordance with the application form submitted on 19 June 2006 and the amended location plan /block plan submitted on 26 September 2006.

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

2. No construction work, site clearance or preparation works shall take place before 08.00 hours and after 17.00 hours on Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

3. Notwithstanding the submitted plans details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

4. No materials other than top soil shall be brought onto the site for the purposes of infilling or upraising ground levels without the prior written consent of the Planning Authority.

REASON In order to control the development of the site and materials used in the making up of ground levels.

5. Notwithstanding the approved plans, details and samples of the proposed external materials, including windows shall be submitted to and approved by the Planning Authority before any development commences on site and implemented thereafter as approved.

REASON In the interests of visual amenity.

6. No trees shall be felled, lopped, have roots cut, or be the subject of any other works without the prior consent of the Planning Authority.

REASON In the interests of visual amenity.

7. Prior to the occupation of the dwellinghouse hereby approved, a 5.0 metre wide access to the application site via Charles Place and a 2.0 metre wide footway over the frontage of the site shall be formed with two off-street car parking spaces being formed within the site for the sole use of the proposed dwelling.

REASON In order to ensure adequate car parking facilities within the site

8. Prior to the commencement of development on site, details of the proposed parking provision to the frontage of 18 South Hamilton Street shall be submitted to and approved by the Planning Authority, in writing, and shall be implemented thereafter as approved prior to any development commencing on site.

REASON In order to ensure adequate car parking facilities within the site and in the interests of road safety.

9. Prior to the commencement of development on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved in writing by the Planning Authority. The Sustainable Urban Drainage System shall thereafter be formed and maintained on site in accordance with the approved details prior to the occupation of any of the residential units.

REASON To ensure that adequate drainage is provided.

NOTES:-

1. The applicant shall make early contact with Scottish Water as the applicant must make a separate application to Developer Services for permission to connect to the public sewage system. Scottish water can be contacted on 0845 601 8855.
2. The applicant shall make early contact with East Ayrshire Council's Roads and Transportation Division in relation to any road occupation permits or appropriate consents which may be required in relation to the proposed development. The Roads and Transportation Division can be contact on 01563 576310.
3. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
4. The applicant should make early contact with Scotland Gas Networks as the development may affect their apparatus in the area. Scotland Gas Networks can be contacted on 0141 418 4093.
5. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific arrangements 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.
6. SUDS shall be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

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