

**EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE – 29 JUNE 2004**

**APPEAL DECISIONS**

**01 OCTOBER 2003 – 31 MARCH 2004**

**Report by Executive Director of Development and Property Services**

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to present to Committee an analysis of Appeal Decisions received from the Scottish Executive for the above period.

**2. COMMENTARY**

- 2.1 Table 1 shows the outcomes in respect of seven appeals. One appeal was withdrawn by the appellants and six decisions were received from the Scottish Executive, against refusals and deemed refusals of planning and listed building consent, refusal of advertisement consent and failure to determine within the prescribed statutory period.
- 2.2 In one case the Reporter agreed refusal consistent with the officer recommendation and Committee decision. Two appeals were approved consistent with the officer recommendation. Four appeals related to non-determination; one being withdrawn, one refused and two approved.

**3. FINANCIAL AND LEGAL MATTERS**

- 3.1 No expenses claims were submitted.

**4. RECOMMENDATION**

- 4.1 It is recommended that the Committee:
- i) note the contents of the report.

**James Lavery**  
**Executive Director of Development and Property Services**  
**04 June 2004**

**LIST OF BACKGROUND PAPERS**

- 1. Planning Application Numbers: 03/0292/SD, 99/0776/OL, 00/0354/OL, 02/0370/LB, 02/0692/FL, 02/0947/FL and 03/0370/FL and associated papers.**

Any person wishing to inspect the background papers listed above should contact Dave Morris on 01563 576753.

Implementation Officer: Alan Neish



**TABLE 1**

	<b>App No.</b>	<b>Site Address</b>	<b>Proposed Development</b>	<b>Recommendation</b>	<b>Decision</b>	<b>Venue &amp; Decision Date</b>	<b>Appeal Decision</b>	<b>Appeal Decision Date</b>	<b>Expenses Claimed</b>	<b>Expenses Awarded</b>
1	03/0370/FL	Land Adjacent to Arran Avenue, Kilmarnock	Residential Development	Recommended that the LPC agree its position at the appeal being one of refusal.	LPC agree the recommended position of refusal on the basis of six reasons.	CLPC 24 October 2004	Refuse	19 January 2004	No	N/A
<p>This appeal against non-determination was refused in that it did not comply with the Policy RES4 of the EALP in terms of roads layout and parking provision and Policies RES 19 and 22 in terms of private and public open space.</p>										
2	02/0947/FL and 02/0370/LB	Waterside Farm, Galston	Change of Use & LB consent for rearing of puppies	Recommended that the LPC agree a range of conclusions about the proposals	The LPC agreed the position that it would have refused the proposals for two reasons.	NALPC 23 July 2003	Approve subject to conditions	11 Nov 2003	No	No
<p>These appeals concerned failure to determine within the prescribed statutory period. They were approved on appeal because the Reporter concluded that subject to conditions the proposal would not have adverse impacts on the listed building, would be consistent with the development plan, would not have adverse impacts on tourism, would not cause pollution and would not generate noise and disturbance.</p>										

	<b>App. No</b>	<b>Site Address</b>	<b>Proposed Development</b>	<b>Recommendation</b>	<b>Decision</b>	<b>Venue &amp; Decision Date</b>	<b>Appeal Decision</b>	<b>Appeal Decision Date</b>	<b>Expenses Claimed</b>	<b>Expenses Awarded</b>
3	99/0776/OL	Land at Western Road, Altonhill, Kilmarnock	Residential, Commercial & Industrial Development	None presented as appeal lodged on the basis of non-determination.	None presented as appeal lodged on the basis of non-determination.	N/A	Appeal withdrawn	13 Nov 2003	No	No
<p>This Outline application was appealed on the basis of non-determination at a time when the Local Plan was being progressed and a number of developers wished to safeguard their positions in the context of the evolving local plan. The appellants sought determination via a Public Local Inquiry. The site's subsequent inclusion in the EALP allowed for the withdrawal of the appeal and the subsequent submission of a further application that will be issued pending conclusion of a Section 75 Legal Agreement.</p>										
4	03/0292/AD	Hill Street, Kilmarnock	Proposed Advertisement Hoardings, six in number	Refuse	Refuse	CLPC 22 Aug 2003	Refuse	09 Jan 2004	No	No
<p>This was an application for six hoardings at locations within a vacant site facing Hill Street. The Reporter concluded that any benefit that might arise from screening of the vacant site was outweighed by the adverse impact on visual amenity and the St Joseph's Church Listed Building and by the likely adverse affect on road safety.</p>										
5	00/0354/OL	Cemetery Road, Galston	Residential, (One House)	Approve	Refuse	NALPC 13 June 2003	Approve subject to conditions	26 Jan 2004	No	No
<p>The application was refused because of detriment to visual amenity and loss of informal community resource, (field). The Reporter did not consider there to be visual impact and noted the absence of objections from the Roads Division and Scottish Water. He gave no weight to the contention that a field accessed over a "rickety" fence had recreational value. He approved the application subject to 9 conditions including the house being no more than 1 ½ storeys in height</p>										

6	<i>App. No</i>	<i>Site Address</i>	<i>Proposed Development</i>	<i>Recommendation</i>	<i>Decision</i>	<i>Venue &amp; Decision Date</i>	<i>Appeal Decision</i>	<i>Appeal Decision Date</i>	<i>Expenses Claimed</i>	<i>Expenses Awarded</i>
	02/0692/FL	Moorfield Industrial Estate	Waste Transfer Station with waste reception area and de-sludge ramp	Approve	Refuse	Special CLPC 01 Aug 2003	Approve subject to conditions	02 Feb 2004	No	No
<p>The Reporter concluded that the character and nature of the uses proposed was consistent with the surrounding area. He foresaw no adverse visual impacts and concluded that the development was compliant with policies CS 4 and IND 4 of the EALP. He therefore granted consent subject to 7 conditions.</p>										