

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE - 30 MAY 2006**

#### **DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 28 APRIL 2006 RELATING TO PLANNING APPLICATION NO 06/0054/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES AT CAIRN ROAD, CUMNOCK**

#### **Report by the Depute Chief Executive/Executive Director of Corporate Support**

### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to inform the Committee of the decision of the Southern Local Planning Committee held on 28 April 2006, regarding the above planning application.

### **2. BACKGROUND**

- 2.1 The Southern Local Planning Committee on 28 April 2006 considered a report dated 14 April 2006 (attached as an Appendix) by the Head of Planning, Development and Building Standards, and agreed that this application be referred to the Development Services Committee with a recommendation for approval, on the grounds that the proposed development would represent an acceptable departure from the Development Plan since proceeds from the proposed sale of the application site for residential purposes would form part of the necessary funding package for development of the applicant's business, Lynch Environmental Solutions Ltd., which, in turn, has potential to provide significant economic and employment benefits within the local area; but that the issue of the Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded an agreement with the applicant in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997, to ensure that all planning gain arising from the sale of the application site will be applied to additional investment in Lynch Environmental Solutions Ltd.

- 2.2 No objections were submitted in respect of this application. Therefore, there is no requirement for a Hearing.

### **3. FINANCIAL/LEGAL IMPLICATIONS - NIL.**

### **4. POLICY IMPLICATIONS**

- 4.1 The Committee are referred to the report dated 14 April 2006 by the Head of Planning, Development and Building Standards, attached as an Appendix to this report.

## **5. RECOMMENDATION**

- 5.1** It is recommended that the Committee consider the planning application with reference to the report by the Head of Planning, Development and Building Standards dated 14 April 2006, and with consideration to the recommendation by the Southern Local Planning Committee, as detailed in Paragraph 2.1, above.

Elizabeth Morton  
Depute Chief Executive/Executive Director of Corporate Support

5 May 2006

SN/SR

### **LIST OF BACKGROUND PAPERS**

**NIL**

Any person wishing further information on this report should contact Bill Walkinshaw, Administration Manager, on telephone number 01563 576135.

**Implementation Officer: Stuart Nelson, Administrative Officer.**

## APPENDIX

### **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 28 APRIL 2006**

**06/0054/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL  
PURPOSES, CAIRN ROAD, CUMNOCK**

**APPLICATION BY LYNCH ENVIRONMENTAL SOLUTIONS LIMITED**

### EXECUTIVE SUMMARY SHEET

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

1.1 Outline planning permission is sought for the development of the site for residential purposes. The applicant has provided an indicative layout that shows the development of the site for 18 two storey dwellings, laid out around a central residential road with access taken from Cairn Road. Although not stated in the application, it is likely that the proposal would result in the loss of the existing beech hedge and a number of trees within or adjacent to the application site.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reason listed on the attached sheet.**

#### **3. SUMMARY OF ANALYSIS**

3.1 As indicated in Section 5 of the report, the application is not considered 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 at Section 6 of the report, there are material considerations relevant to this application but it is considered that they are not of sufficient weight to justify a significant departure from policy in this case.

3.2 The application under consideration is for the residential development of a site which is safeguarded for industrial purposes, lying adjacent to the major industrial area of Cumnock. Development of the site for residential purposes would result in the irreversible loss of potential industrial land.

3.3 While there is sympathy with the applicant's situation in terms of start-up funding, and taking cognisance of the potential benefits accruing from employment opportunities arising from the applicant's business venture, it is not considered that this is material to the determination of this application and

therefore is not of sufficient weight to justify a significant departure from the development plan.

### **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 will require to be referred to the Development Services Committee because it would be 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.**

# EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 28 APRIL 2006

06/0054/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES, CAIRN ROAD, CUMNOCK

APPLICATION BY LYNCH ENVIRONMENTAL SOLUTIONS LIMITED

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 Local Planning Committee under the scheme of delegation as the application is of area significance and is recommended for refusal.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The site comprises an area of vacant land extending to 1.55 acres (0.63 hectare) and lies to the rear of the former Blackwood Brothers factory within Caponacre Industrial Estate in Cumnock. The application site presents as a marshy area of vacant land bounded to the north west by an overgrown beech hedge and Cairn Road, by the existing factory unit to the north east, by a tree belt and agricultural land to the south west and by a tree belt and the former Kingsmead carpet factory to the south east.

2.2 The site lies within six metres of the rear of the former Blackwood Brother factory and lies elevated from the factory unit at approximately 2 metres above the factory level, with the application site gently rising in a north east to south west direction. Stays from a stack to the rear of the existing factory unit are located within the northern part of the application site.

2.3 **Proposed Development:** Outline planning permission is sought for the development of the site for residential purposes. The applicant has provided an indicative layout that shows the development of the site for 18 two storey dwellings, laid out around a central residential road with access taken from Cairn Road. Although not stated in the application, it is likely that the proposal would result in the loss of the existing beech hedge and a number of trees within or adjacent to the application site.

## 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has no objection to the proposed development subject to conditions. The site will require to be served by

internal roads that comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads Department. The existing footway and street lighting on Cairn Road will require to be extended along the frontage of the proposed development site. Traffic calming on Cairn Road will also be required and the existing 30 mph limit extended out to the bypass overbridge. Junction visibility sightline splay areas of 2.5 metres by 120 metres will require to be formed and maintained at the new access onto Cairn Road with no obstruction greater than 1 metre in height allowed within these areas. No surface water must be allowed to discharge onto the public road from the site. Off road parking spaces will require to be provided for the dwellings in line with the Roads Development Guide. The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road. Any garages must be set back a minimum of 6 metres from the rear of the footway. Any gates will require to open inwards away from the public road. Drainage details, and in particular the use of SUDS will require the approval of East Ayrshire Council Roads and Transportation Division, Scottish Water and SEPA as part of the Construction Consent.

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

3.2 Scottish Water has not responded to the consultation letter.

***Noted.***

3.3 East Ayrshire Economic Development Division states that his application has been lodged on behalf of Lynch Environmental Solutions Ltd, which is a new start up business and with which colleagues have been working for some time. Indeed, the Council has already made a significant financial investment in the company, to take it to its current stage of development. It is understood that the business requires to raise capital to finance its further development to the point of commencement of commercial trading operations. As the company says in its written submission, dated 5 April 2006, it has explored a range of other funding options from sources within the public sector, but all of these options have come to nothing and the company must look towards alternative means of funding. The land which is the subject of this planning application is surplus to the requirements of the business and the planning application for residential consent has been submitted as a means of releasing value from the surplus land – this value would then be invested as part of the necessary funding package for the development of the business. It is understood that the applicant would be willing to agree to a planning condition to that effect. Therefore, this is a development proposal to which the Economic Development and Property Division would not raise any objections.

***Noted.***

3.4 Power Systems and Transco have no objection in principle to the proposed development.

***Noted.***

3.5 Cumnock Community Council has no objections to the proposed development.

***Noted.***

3.6 The Scottish Environment Protection Agency states that it has no objections in principle to the proposals provided the drainage arrangements are to its satisfaction. All foul drainage from the development site must be connected to the public sewerage system in accordance with Scottish Water requirements. The development must not entail the use of dual manholes for connections to the existing sewage system, either in the public sewers or within the curtilage of the development. The applicant should obtain written assurance from Scottish Water that the additional foul drainage arising from this development will not cause or contribute to premature operation of downstream consented storm sewer overflows. SEPA request a condition requiring the applicant to install a surface water treatment system designed and constructed in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual published by CIRIA.

***A note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with SEPA regarding the drainage of the site and the use of SUDS***

3.7 East Ayrshire Environmental Health Division suggests that in view of the close proximity of the proposed development to the bypass, a noise survey should be carried out to determine what, if any, additional sound insulation measures may require to be taken by the developer to ensure minimal disturbance to residents by traffic noise. The results of any survey carried out should be made available to East Ayrshire Council for consideration.

***The suggestions of the Environmental Health Division could be addressed by attaching an appropriate condition to any consent granted in outline for the proposed development. It is considered in this instance that such a survey would also be of relevance given the close proximity of the application site to existing industrial properties within Caponacre Industrial Estate with the potential for noise creating operations.***

#### **4. REPRESENTATIONS**

4.1 No third party representations have been received with respect to the proposed development.

***Noted.***

## **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).

### Ayrshire Joint Structure Plan

5.2 There are no policies in the Structure Plan especially relevant to the proposed development.

***Noted.***

### East Ayrshire Local Plan

5.3 Policy IND5 safeguards those established industrial areas as shown on the Local Plan Maps for business, industrial and storage and distribution uses.

***The application site lies within a safeguarded industrial site. Residential development on this safeguarded industrial site within Caponacre Industrial Estate is therefore contrary to Policy IND5.***

5.4 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. 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;

***Residential development at this location would not have any detrimental impacts on the surrounding area. However, there may be an impact on the proposed housing as it would be located very close to the rear of an existing factory.***

(ii) transportation and infrastructure implications;

***There are no adverse infrastructure implications that cannot be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.***

(iii) compatibility with surrounding densities and housing types; and

***Although the application is in outline, an indicative layout has been submitted. The density is considered to be too high as many of the rear garden grounds do not meet the Council's minimum private open space standard. However, this could be addressed by the use of appropriate conditions in any consent granted in outline for the development.***

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

***It is not possible to comment on design as the application is in outline only. However, as stated under (iii) above, the Council's minimum private open space standards are not met by the indicative layout supplied as part of the application.***

**As the proposal is for residential development in a safeguarded industrial/business site, the application is not acceptable in planning policy terms.**

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the statement of support by the applicant and relevant planning history.

### Consultation Responses

6.2 None of the consultation responses have raised any issues which would indicate that the application should be refused although a number of issues would require to be resolved. These could be addressed either through conditions or appropriate notes attached to any consent granted for the proposed development

### Statement of Support by Applicant

6.3 The applicant states that the company is endeavouring to raise money primarily from the private sector to finance the commencement of its materials recovery and safe waste disposal operations at Factory Unit 1 (former Blackwood Brothers factory) in Caponacre Industrial Estate, Cumnock, for which it already holds a SEPA Licence encompassing all the requirements of the European WEEE Directive. The company has been given strong support and encouragement from East Ayrshire Council for this environmentally friendly project. The company's licence is, to the best of its knowledge and belief, one of only two held in Scotland. The main activity at start up will be the processing of old refrigerators, obtained under contract initially from commercial users such as supermarkets, hospitals and other retail and catering industry sources. It is

expected that this will provide a trading platform which will enable the applicant to diversify into the acceptance of domestic refrigerators.

6.4 These activities, together with expected further diversification into the safe processing of other WEEE Directive-controlled products (such as microwave ovens and washing machines etc.) will create jobs in Cumnock. The Cumnock facility would operate in a UK market which is estimated to produce 93 million waste units per year, of which the Scottish share is reckoned to be approximately 10% or 9.3 million units. The company's waste recovery process, which has 'patent applied for' protection, in combination with the licensed Caponacre factory, would enable Cumnock to become a UK centre for the company's safe, clean process of materials recovery. The residential planning application, if granted now, would yield land betterment value which would be applied in full to the cost to the applicant of acquiring the factory. The urgently needed funding thus created would greatly enhance the credibility of this company's efforts to raise the additional start up finance, from private equity and bank sources, necessary to commence operations.

6.5 The site for which residential planning consent is applied for is surplus to the industrial requirements of the company's project. It is currently zoned for industrial use, but has never been used for that purpose. If the application is granted it would allow the remaining industrial site to be brought into use contributing to economic regeneration and new employment, rather than lying vacant and decaying. We will start up with a workforce of 20. If our plans to increase the throughput of products are realised we will eventually be able to offer 200 jobs to local people.

6.6 The applicant has also provided additional financial information giving details of the current and proposed funding of the company's project. This indicates a shortfall of start up funding. The company hopes to achieve this by the betterment conferred on the application site should planning consent be granted for residential development. The applicant states that this would provide additional investment sufficient to enable the company to acquire the factory at original acquisition cost of £210,000 to its current owners, who are shareholders in the company. For the avoidance of doubt, the applicant would undertake to apply all such planning gain to additional investment in Lynch Environmental Solutions Limited and would be prepared to accept planning conditions or enter into a Section 75 Agreement to this effect.

***It is stated that the housing development of this safeguarded industrial site is proposed to fund a Waste Management business, which is going through financial difficulties, located in the adjacent unit at Caponacre Industrial Estate. Whilst there is sympathy with the applicant's situation, it is considered that this is not a material planning consideration and that the application remains contrary to planning policy.***

## Planning History

6.7 There is no previous planning history related to the application site itself. An application for a Certificate of Lawfulness for the process of disassembly of fridges with recovery of CFC gases in the former Blackwood Brothers factory unit was granted on 24 June 2004 (Ref. No. 04/0532/LD).

6.8 Outline planning permission for residential development of the former Walker shoe factory site, which lies directly across Cairn Road from the present application site, was approved under delegated powers on 02 September 2005 (Ref. No. 05/0531/OL). It should be noted however that this site was not safeguarded for industrial purposes in terms of the East Ayrshire Local Plan.

## **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 not considered 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 at Section 6 of the report, there are material considerations relevant to this application but it is considered that they are not of sufficient weight to justify a significant departure from policy in this case.

8.2 The application under consideration is for the residential development of a site which is safeguarded for industrial purposes, lying adjacent to the major industrial area of Cumnock. Development of the site for residential purposes would result in the irreversible loss of potential industrial land.

8.3 While there is sympathy with the applicant's situation in terms of start-up funding, and taking cognisance of the potential benefits accruing from employment opportunities arising from the applicant's business venture, it is not considered that this is material to the determination of this application and therefore is not of sufficient weight to justify a significant departure from the development plan.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reason listed 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, Development and Building Standards, the application will require to be referred to the Development Services Committee because it would be a significant departure from the development plan.

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

14 April 2006  
HM/HM/SMB  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Statement of Support by Applicant.
7. Previous applications 04/0532/LD and 05/0531/OL

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

***Implementation Officer: Dave Morris***

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0054/OL

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Location	Cairn Road Cumnock KA18 1SH
Nature of Proposal:	Proposed Development of Land for Residential Purposes
Name and Address of Applicant:	Lynch Environmental Solutions Limited The Knowe 42 Auchinleck Road CUMNOCK
Name and Address of Agent	Drew Deans Design 11 Dryburgh Walk Moodiesburn GLASGOW

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DPO's Ref:  
PPO's Ref: Hugh Melvin

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

1. The proposed development would constitute the residential development of a site safeguarded for business, industrial and storage and distribution uses and is therefore contrary to Policy IND5 of the adopted East Ayrshire Local Plan 2003.