

EAST AYRSHIRE COUNCIL

**DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING
COMMITTEE - 22 AUGUST 2006**

**DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 11
AUGUST 2006 RELATING TO PLANNING APPLICATION NO 06/0296/OL:
PROPOSED ERECTION OF THREE DWELLINGHOUSES ON LAND ADJACENT
TO BANK LODGE, BANK GLEN, NEW CUMNOCK BY MRS LINDA MELVIN**

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 11 August 2006, regarding the above planning application.

2. BACKGROUND

- 2.1 The Southern Local Planning Committee on 11 August 2006 considered a report dated 31 July 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, the Committee being of the view that the proposed development would represent an acceptable departure from the Development Plan in view of the proximity of the proposed development site to the existing settlements of Bank Glen and The Leggate, and other recent housing developments at Connel Park, New Cumnock.
- 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 31 July 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 this Committee consider the planning application with reference to the report dated 31 July 2006 by the Head of Planning, Development and Building Standards 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

14 August 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: 11 AUGUST 2006

**06/0296/OL: PROPOSED ERECTION OF THREE DWELLINGHOUSES AT
LAND ADJACENT TO BANK LODGE, BANK GLEN, NEW CUMNOCK**

APPLICATION BY MRS LINDA MELVIN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline Planning consent is sought for the erection of three houses, involving the alteration of the existing vehicular access and a measure of tree felling. No detailed drawings have been submitted although the applicant has indicated on the application form that white render and slate grey roof tiles would be used on the dwellings.

2. RECOMMENDATION

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

3. CONCLUSIONS

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.

3.2 The application site lies in the Rural Diversification Area but outwith a settlement identified in the local plan. It does not represent an addition to a clearly defined group of four or more houses not having a settlement boundary and as such is contrary to the EALP.

3.3 Outline consent is sought for three houses, largely on the basis of decisions taken in the New Cumnock area in recent times contrary to the terms of the development plan. The adopted local plan is a relatively recent document which is undergoing the appropriate statutory review. Whilst the applicant's submissions have been carefully considered, it is not appropriate to afford such weight to the decisions highlighted as to set aside the terms of the adopted EALP.

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 East Ayrshire Local 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: 11 AUGUST 2006

**06/0296/OL: PROPOSED ERECTION OF THREE DWELLINGHOUSES AT
LAND ADJACENT TO BANK LODGE, BANK GLEN, NEW CUMNOCK**

APPLICATION BY MRS LINDA MELVIN

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 at the request of the Local Member under the scheme of delegation, as the proposal is contrary to policy and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located in the Rural Diversification Area as identified in the Adopted East Ayrshire Local Plan and lies to the immediate north of Bank Lodge. It is in turn some 85 metres outwith the settlement boundary of Bank Glen and 500 metres to the west of Leggate; although recent housing developments at Connel Park extend to within approximately 130 metres. The site straddles the existing vehicular access to Bank Lodge off the B741 Dalmellington road. This access is lined by a number of mature silver birch trees.

2.2 The site, which lies at a lower level than both Bank Lodge and the adjacent B741, extends to some 0.2 hectares.

2.3 **Proposed Development:** Outline Planning consent is sought for the erection of three houses, involving the alteration of the existing vehicular access and a measure of tree felling. No detailed drawings have been submitted although the applicant has indicated on the application form that white render and slate grey roof tiles would be used on the dwellings.

3. CONSULTATIONS AND ISSUES RAISED

3.1 New Cumnock Community Council have responded with no objections to the application.

Noted.

3.2 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the following road safety requirements being met by condition:

- Access to be taken from a road and turning area compliant with the Roads Development Guide 1996. (Road Construction Consent would also be required)
- 2.5m by 90m sightlines at the junction of the B741 with no fencing, hedges or buildings allowed within these areas.
- No surface water to discharge onto the adjacent public road / footway.
- Residents and visitor car parking to be consistent with the Roads Development Guide 1996.
- The existing B741 footway must be retained across the site frontage.

Conditions could be attached to any consent granted for the development to meet the requirements of the Roads Division

3.3 The Scottish Environment Protection Agency has no objections to the application provided the foul drainage from the site connects to the public sewer without adversely affecting any associated storm overflows. The applicant should contact Scottish Water regarding connection to the sewer. Any water run-off from a surface water drainage system to the water environment from a construction site must be drained by a SUD to avoid pollution.

Notes could be attached to any consent granted for the proposed development advising the applicant to make early contact with Scottish Water in relation to the drainage of the site and with respect to water run-off and the implications of the "Water Environment (Controlled Activities) (Scotland) Regs 2005".

3.4 Power Systems has indicated it has no objections, but has apparatus in the vicinity which may require alteration or protection. The applicant should advise Power Systems if the proposals are likely to affect their equipment, and take account of relevant health and safety guidance.

A note could be attached to any consent issued advising the applicant in the above terms.

3.5 Scottish Water has no objections in principle to the proposed development subject to:-

- Making an appropriate application for permission to connect to the public wastewater system

- There being spare capacity in the public sewer network when an application for connection is made
- The use of a totally separate drainage system with consideration being given to the use of SUDS
- There being spare capacity in the public water network when an application for connection is made.

Conditions and/or Notes to Applicant could be attached to any consent granted for the development, to meet the requirements of Scottish Water.

3.6 Outdoor Amenities Section of the Department of Neighbourhood Services has expressed reservations about the loss of several mature Birch trees forming an avenue on the access road to Bank Lodge. As many trees as possible should be retained through adherence to BS 5837 (2005) and with appropriate root protection in place.

Conditions could be attached to any consent granted to address the retention, where possible, of existing trees and the provision of appropriate replacement planting where not.

3.7 Scotland Gas Networks do not object to the proposal but advise that there should be no mechanical excavation within 0.5 metres of any low pressure gas main, 2 metres of any medium pressure main or 3 metres of the intermediate pressure system. Reference is made to Health and Safety Executive guidance in this respect.

These points can be addressed on any consent granted by a Note to Applicants.

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 (2003).

Ayrshire Joint Structure Plan

5.2 Policy G6 states that development proposals outwith settlements in the Rural Diversification Areas shall conform to the structure plan where the development:

- A comprises an acceptable form of residential development as defined by the local plan;

The three proposed houses do not comprise an acceptable form of residential development as defined in the local plan.

- B provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;

The proposal does not provide for any of the above uses.

- C can be justified in terms of social and economic benefit to the community;

The proposed houses cannot be justified in terms of social and economic benefit to the community.

- D contributes to rural land diversification: or

The proposal would not contribute to rural land diversification.

- E provides for the operational needs of agriculture and forestry.

The proposal does not provide for the operational needs of agriculture and forestry.

5.3 The proposal does not meet with any of the above circumstances and therefore the houses are contrary to the Approved Ayrshire Joint Structure Plan.

East Ayrshire Local Plan

5.4 Policy RES14 is supportive of small scale residential developments within the identified Rural Diversification Area, in one of three stated circumstances.

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES13; or

Policy RES13 supports residential development demonstrated as being required (in summary) for agricultural or forestry workers, for individuals required on-site relative to rural or tourism enterprises, for on-site staff part of an authorised proposal and to enable conversion of large scale listed buildings. No supporting information has been submitted to state that the proposal is required for any of the categories of development listed in policy RES 13 and the applicant has accepted that the proposal is not justified on this basis.

(ii) the proposed development would constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary, subject to a set of stated criteria being met, as follows:

- Any proposed expansion of such a housing group being limited to 50% of the total number of dwellings existing in that grouping as of 01 January 1999, up to a maximum of 4 new housing units, and subject to the provisions of RES 15 and 17,

The application does not meet the terms of this criterion in that it does not comprise an addition to a clearly defined group of houses.

- Any development requiring to be appropriate in terms of design to the particular location in which it is proposed,

Being in outline, it is not possible, nor at this point, appropriate to assess compliance with this criterion.

- Any dwelling requiring to be sensitive to the design and layout of the existing settlement or group of buildings,

Being in outline, it is not possible, nor at this point, appropriate to assess compliance with this criterion.

- Any development requiring to meet the standards required by all relevant public and statutory service providers,

The consultations do not suggest that the application should be refused.

- The sensitive infilling of available gap sites to consolidate existing dwellings within the group will be particularly encouraged in preference to any linear expansion of the grouping of housing

In that the application is not an addition to a clearly defined group of houses and because it does not concern a gap site, infilling between

adjacent development, it does not meet with the terms of this criterion.

(iii) the proposed development constitutes very low density housing development, forming part of an integrated group of properties with a dual residential and workplace function supporting the rural economy as detailed in Policy RES 18.

This criterion is not applicable as the proposal is not presented on this basis. In summary, the application is not consistent with the terms of Policy RES14.

5.5 Policy ENV12 states that throughout the rural area, and especially in the Sensitive Landscape Character Areas, the Council will ensure that all development proposals respect, in terms of their design, the local landscape characteristics of the particular area within which they are proposed. Developers will be expected to conserve and enhance, and reinstate or replace where appropriate, those features which contribute to the intrinsic landscape value and quality of the area concerned. The policy also states that development which results in the permanent loss of landscape features which are not readily renewable and whose loss would be unacceptable in landscape terms, will not be supported by the Council.

The application lies not in a Sensitive Landscape Character, but in a rural, area. The applicant indicates that it is regrettable that a number of mature silver birch trees will require to be felled to facilitate the development. The loss of these trees would indeed be unfortunate and would rest uneasily against the thrust of Policy ENV12; however, the applicant has indicated that they are currently damaging the sewer serving their property and would in any case require removal for that reason. The trees are not covered by a tree preservation order and the applicant has indicated that she would plant replacement trees.

5.6 The principle of the development is not considered acceptable in terms of Structure Plan policy G6 nor in terms of adopted local plan policy RES 14. The proposal cannot therefore be supported 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 impact on the amenity of the area, the supporting statement from the applicant and the Finalised Ayrshire Joint Structure Plan.

Consultations Responses

6.2 None of the consultation responses have raised any issues which would indicate that the application should be refused. Those points requiring resolution could be addressed either by condition / note to applicant or within any subsequent detailed application.

Impact on the amenity of the area

6.3 The application does not impact adversely on any existing landscape or other heritage designations. However as previously indicated, the loss of existing trees would be unfortunate, although these are not currently afforded any statutory protection and the applicant would facilitate replanting. In the event of any development of the site, the layout and house types could be controlled such as to minimise felling and consequent adverse impact on the amenity of the area.

Supporting Statement

6.4 The submission is supported by a statement from the applicant which presents material considerations, summarised as follows:-

- The local plan places the site in the Rural Diversification Area and does not recognise that Bank Glen as well as Connel Park, Craigbank and Glen Park are historically and intrinsically linked to New Cumnock.
- This proposal is not for agricultural or forestry workers, for those engaged in a rural enterprise or as part of an enabling development. It does form part of a grouping at Bank Glen defined by its postal address comprising 16 existing houses with one under construction; with 6 more if you include Glen Park. The proposal is a limited addition to Bank Glen.
- Notwithstanding the local plan, the Council's planning committees have approved a number of residential developments in the Rural Diversification Area contrary to the adopted local plan.
04/0063/OL - House at Knockshinnoch Road, New Cumnock approved unanimously by Development Services Committee on 01 April 2004 following referral by SLPC.
04/0258/OL - Up to 9 residential plots at Connel Park, New Cumnock approved unanimously by Development Services Committee on 03 August 2004 following referral by SLPC.
05/1059/OL - 5 houses at Polquhirter, New Cumnock approved 10 – 5 by Development Services Committee on 20 December 2005 following referral by SLPC.

05/1117/OL – 4 houses at Boig Road, New Cumnock approved 7 – 4 by Development Services Committee on 30 May 2006 following referral by SLPC.

- 14 houses have been approved within 200 – 500 metres of the site with 3 more approved as a limited addition to the Connel Park group; 17 in total. This is a significant material consideration in terms of consistency but also it is clear that the Council wishes to encourage residential development in the immediate locality, this endorsed by the main planning committee decisions.
- In respect of 04/0063/OL, the Development Services Committee minute records “... the location of the application site represented one of a number of anomalies in the settlement boundaries identified in the local plan which should be addressed at the earliest opportunity in any future review of the plan.” The Development Services Committee clearly has not wished to await the outcome of any such review.
- I understand that it is the inconsistency with the local plan alone that prevents a favourable recommendation on the application. Understanding that it could be possible for the application to be determined on a delegated basis, I would request that it be considered at Committee to allow for consistency in decision making.
- Outline planning consent CD/88/301 for one dwellinghouse was granted in December 1988. Although this has expired, during the period of that consent and up until adoption of the local plan in 2003, planning policies would have supported residential development of the site.
- Trees loss is regrettable; however the silver birches will still require to be removed as their roots have irreparably damaged the sewer serving my dwellinghouse which needs replacement. I would be prepared to plant replacement trees in a more suitable location.

Members will be aware of the review of the local plan currently underway. A report will be presented to the Development Services Committee on 22 August 2006 to seek authority to undertake the necessary statutory consultation procedures through a Consultative Draft plan. That plan takes on board the provisions of the replacement structure plan and updated planning advice and guidance as well as specific planning issues that have arisen. It will, for example, address SPP15 “Planning for Rural Development”. The Consultative Draft Plan will itself become a material consideration, but one to which less weight should be attached in comparison to the current development plan. To do otherwise would be to

undermine the consultation process and the proper assessment of comments received.

Similarly, the weight that should be given to decisions made contrary to the terms of the present development plan should be assessed against the relatively recent adoption of that current local plan, (April 2003), and should again be less than that given to the EALP.

The main thrust of the applicant's supporting statement is that a recommendation contrary to the development plan is merited by recent decisions in the area. The implications of recent contrary decisions will indeed form a part of the local plan review process. It would, though, be inappropriate to apply weight to recent decisions sufficient to set aside the EALP as this would bring about a development approach lacking any cogent and coherent policy basis.

As regards the 18 year old planning decision and the content of the previous policy framework, these are of minimal relevance in the determination of this application.

Ayrshire Joint Structure Plan (New Finalised Version)

6.5 Policy COMM 5 - Housing in the Countryside states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

6.6 The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential development in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

The proposed houses do not fall under any of the above types of development, are not acceptable in terms of the East Ayrshire Local Plan and are therefore contrary to policy COMM 5 of the draft Ayrshire Joint Structure 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.

8.2 The application site lies in the Rural Diversification Area but outwith a settlement identified in the local plan. It does not represent an addition to a clearly defined group of four or more houses not having a settlement boundary and as such is contrary to the EALP.

8.3 Outline consent is sought for three houses, largely on the basis of decisions taken in the New Cumnock area in recent times contrary to the terms of the development plan. The adopted local plan is a relatively recent document which is undergoing the appropriate statutory review. Whilst the applicant's submissions have been carefully considered, it is not appropriate to afford such weight to the decisions highlighted as to set aside the terms of the adopted EALP.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated 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 East Ayrshire Local Plan.

Alan Neish
Head of Planning, Development and Building Standards

31 July 2006

DVM/RH

060296OLBankLodgeNewCumnockRH

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. Ayrshire Joint Structure Plan, (New Finalised Version).
7. Supporting Statement from applicant.
8. Planning applications 04/0063/OL, 04/0258/OL, 05/1059/OL and 05/1117/OL.

Anyone wishing to inspect the above background papers should contact Mr Morris on 01563 576753.

Implementation Officer: Dave Morris

**EAST AYRSHIRE COUNCIL
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997**

Application No. 06/0296/OL

Location: Land adjacent to Bank Lodge, Bank Glen, New Cumnock

Nature of Proposal: Proposed Erection of Three Dwellinghouses

Name and Address of Applicant: Mrs Linda Melvin, Bank Lodge, New Cumnock, KA18 4QG

Name & Address of Agent: N/A

DPO's Ref: DVM/RH

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

1. The proposal is for new residential development in the countryside which does not meet the provisions of Policy G6 of the Approved Ayrshire Joint Structure Plan. It is contrary to the terms of this policy which requires that all five stated criteria are met in order that the proposal is acceptable.
2. Outline planning permission is being sought for a residential development in the Rural Diversification Area for which no justification has been submitted in terms of Policy RES 13; pertaining to an economic or agricultural need case, use relative to a rural or tourism enterprise or as an enabling development.
3. Policy RES 14 of the adopted East Ayrshire Local Plan is supportive of small scale residential developments within the identified Rural Diversification Area but only where the proposal falls within one of the criteria of the policy. The houses are not compliant with Policy RES13, do not constitute a limited addition to an existing clearly defined group of four or more houses not delineated by a formal settlement boundary and are not low density, integrated workplace / residential units supportive of the rural economy. Consequently they are contrary to the provisions of Policy RES 14.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**