

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE - 9 JANUARY 2007**

#### **DECISION OF THE CENTRAL LOCAL PLANNING COMMITTEE HELD ON 8 DECEMBER 2006 RELATING TO PLANNING APPLICATION NO 06/0546/OL: PROPOSED RESIDENTIAL DEVELOPMENT AT LAND AT SAMSON AVENUE, KILMARNOCK BY 21<sup>ST</sup> AYRSHIRE SCOUTS**

#### **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 Central Local Planning Committee held on 8 December 2006 regarding the above planning application.

#### **2. BACKGROUND**

- 2.1** The Central Local Planning Committee on 8 December 2006 considered a report dated 27 November 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 Local Planning Committee being of the view that the proposed development was acceptable subject to the proposal being designed to accommodate the existing culvert and given the fact that, notwithstanding the flooding issue, other development had recently been approved in the area.

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

#### **4. POLICY IMPLICATIONS**

- 4.1** The Committee are referred to the report dated 27 November 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 by the Head of Planning, Development and Building Standards dated 27 November 2006, and with consideration to the recommendation by the Central Local Planning Committee as detailed in Paragraph 2.1 above.

Elizabeth Morton  
Depute Chief Executive/Executive Director of Corporate Support

19 December 2006

JM/DL

### **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: Jennifer Morrison, Administrative Officer.**

## APPENDIX

### EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 01 DECEMBER 2006

**06/0833/OL: PROPOSED ERECTION OF TWO DWELLINGHOUSES AND  
GARAGES AT CROSSHILL WOOD, SKARES**

**APPLICATION BY MR. JOHN CAMPBELL**

### EXECUTIVE SUMMARY SHEET

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

1.1 Outline planning permission is being sought for the development of the site for the erection of two dwellinghouses. An indicative site layout has been submitted showing a linear development of two plots along the C97 road served by a communal vehicular access. No details of the house types have been submitted at this stage although the indicative layout plan shows two substantial detached dwellings with attached double garages. The applicant has stated that the proposed dwellings would be of 1.5 storeys in height. The application site also includes the provision of an access road at the north western extremity of the site that would be retained for future access to the land to the rear of the present application site.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons 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 departure from policy in this case.

3.2 The application under consideration is for the residential development of a site which lies in open countryside outwith any settlement boundary. The site is within the Rural Protection Area and no justification has been provided for the development in this rural location.

3.3 In the absence of any specific locational need for this residential development there is no justification for approval which would represent a significant departure from the development plan.

3.4 Furthermore, the Roads and Transportation Division has recommended that the application be refused on road safety grounds as visibility sightlines appropriate to the development cannot be achieved at the site

### **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: 01 DECEMBER 2006

#### 06/0833/OL: PROPOSED ERECTION OF TWO DWELLINGHOUSES AND GARAGES AT CROSSHILL WOOD, SKARES

#### APPLICATION BY MR. JOHN CAMPBELL

#### 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 the subject of an objection and is recommended for refusal.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located on the east side of the C97 Skares Station Road that leads from the A70 in the north to Skares village at its southern limit. The site is located immediately north of the junction of the C97 road with the access road leading to the former Skares Brickworks site.

2.2 The application site extends to approximately 5200 square metres and comprises an area of agricultural land in pastoral use. The site is bounded to the west by the C97 road and agricultural land, to the south by the access road leading to the former Skares Brickworks site and by agricultural land to the north and east.

2.3 **Proposed Development:** Outline planning permission is being sought for the development of the site for the erection of two dwellinghouses. An indicative site layout has been submitted showing a linear development of two plots along the C97 road served by a communal vehicular access. No details of the house types have been submitted at this stage although the indicative layout plan shows two substantial detached dwellings with attached double garages. The applicant has stated that the proposed dwellings would be of 1.5 storeys in height. The application site also includes the provision of an access road at the north western extremity of the site that would be retained for future access to the land to the rear of the present application site.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has recommended refusal of the application on road safety grounds. Visibility splays of 2.5m by 120m are required to be formed and maintained at the site access point. The maximum visibility splays which can be achieved at the proposed site access are 2.5m by 90m due to the proximity of the crest of the hill. The application should therefore be refused because the minimum visibility requirements cannot be achieved.

***It is understood that the applicant's agent has had further discussions with the Roads and Transportation Division but at this time, no proposals have been put forward to resolve the road safety concerns raised.***

3.2 Scottish Water has no adverse comments to make on the proposed development.

***Noted.***

3.3 Power Systems has no objection in principle to the proposed development.

***Noted.***

3.4 Ochiltree Community Council raises an objection to the planning application for the following reasons:

(i) The land proposed for development appears to be a greenfield site and does not appear to be for use by forestry or agricultural workers. If this is the case the development is outwith the scope allowed within the current East Ayrshire Local Plan.

***The applicant has not provided any justification or specific locational need for the proposed dwellinghouses and therefore the proposal is not consistent with the provisions of the East Ayrshire Local Plan as described in section 5 below.***

(ii) The above statement is particularly relevant as a previous application for a similar development on land adjacent to the Skares boundary on the same road was refused for the reasons outline above.

***The site referred to by the Community Council lies approximately 1km south of the current application site immediately north of the settlement boundary of Skares. An outline planning application (Ref. No. 02/0756/OL) for the erection of a dwellinghouse on this site was refused on 01 November 2002. This application was refused on the basis of a ribboning out of development from the settlement boundary of Skares. A subsequent appeal to the Scottish Ministers (Ref. No. P/PPA/190/94) was dismissed on 16 June 2003.***

3.5 The Scottish Environment Protection Agency has no objections in principle to the proposed development provided the drainage arrangements are to SEPA's satisfaction. All foul sewage must be connected to a septic tank and soakaway. In order to reduce the risk of contamination of controlled waters, the soakaway should be located at least 50 metres from any private water supply or other groundwater resource and a minimum of 10 metres from any watercourse or permeable drain. Surface water should be discharged via a suitably designed Sustainable Urban Drainage System such as a filter trench or French drain. All waste materials generated by this development that require to be removed such as construction and demolition wastes, which may also include excavated material, must be removed from the site by authorised persons. Waste must be removed to a site that has either an appropriate waste management licence or registered exemption from licensing, as issued by SEPA.

***A note could 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.***

3.6 The West of Scotland Archaeology Service has no objections to the proposed development.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 One third party letter of representation has been received with respect to the proposed development. The objection is made on the grounds that the proposed development is contrary to the current local development plan.

***In the absence of any justification for the proposed dwellinghouses on grounds of specific locational need, the proposed development is contrary to the development plan as indicated in Section 5 below.***

#### **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). The application relates to an area of land located in the Rural Diversification Area.

Ayrshire Joint Structure Plan

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

A has a demonstrated site specific locational need;

***No supporting information has been provided to demonstrate that the proposal has a site specific need to be located outwith the settlement boundary.***

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

***Two new houses in the rural area cannot be justified in terms of social and economic benefit to the community.***

C contributes to rural land diversification: or

***This proposal would not contribute to rural land diversification.***

D provides for the operational needs of agriculture and forestry.

***The applicant has not demonstrated that the new houses are required for the operational needs of agriculture or forestry.***

***As it stands, the application is contrary to structure plan policy as the location of the proposed houses in the Rural Protection Area has not been justified.***

#### East Ayrshire Local Plan

5.3 Policy RES13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis for one of four stated purposes.

(i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;

(ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;

(iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or

(iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8.

The policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support. In addition, the policy enables the Council to request

applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information.

***As stated under policy G5 of the AJSP, the applicant has not submitted any supporting information to justify the location of the proposed houses in the Rural Protection Area. Until this is provided the application is contrary to policy RES 13.***

5.4 The principle of the development is not considered acceptable in terms of Structure Plan policy G5 or in terms of adopted local plan policy RES13. 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 finalised Ayrshire Joint Structure Plan, the representations received and relevant planning history.

### Consultation Responses

6.2 The consultation responses from the Roads and Transportation Division and Ochiltree Community Council have raised issues which would indicate that the application should be refused. A number of issues raised by other consultees could be addressed either through conditions or appropriate notes attached to any consent granted for the proposed development

### Finalised Ayrshire Joint Structure Plan

6.3 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. 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 housing development does not fall into any of the above categories and therefore it is contrary to the finalised structure plan policy.***

### Representations

6.4 The representation received is pertinent in that it correctly indicates that the proposed development is contrary to the development plan.

### Planning History

6.5 There is no relevant planning history directly relating to the application site itself. However full planning permission was granted for the erection of a dwellinghouse at Crosshill Mount, some 180 metres north of the current application site (Ref. No. 03/1058/FL dated 29 March 2004). This application was approved on the basis of an extant planning consent for the erection of a dwellinghouse at this location, approved under the policies contained within the Finalised Cumnock and Doon Valley District Wide Local Plan (Ref. No. 02/0306/FL dated 12 June 2002).

6.6 An outline planning application (Ref. No. 02/0756/OL) for the erection of a dwellinghouse on a site approximately 1km south of the current application site was refused on 01 November 2002. This application was refused on the basis of a ribboning out of development from the settlement boundary of Skares. A subsequent appeal to the Scottish Ministers (Ref. No. P/PPA/190/94) was dismissed on 16 June 2003.

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

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

*Noted.*

## **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 departure from policy in this case.

8.2 The application under consideration is for the residential development of a site which lies in open countryside outwith any settlement boundary. The site is within the Rural Protection Area and no justification has been provided for the development in this rural location.

8.3 In the absence of any specific locational need for this residential development there is no justification for approval which would represent a significant departure from the development plan.

8.4 Furthermore, the Roads and Transportation Division has recommended that the application be refused on road safety grounds as visibility sightlines appropriate to the development cannot be achieved at the site.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons 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**

17 November 2006  
HM/HM  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letter of Representation
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Previous applications 02/0306/FL and 03/1058/FL.

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: 06/0833/OL

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Location	Crosshill Wood Skares
Nature of Proposal:	Proposed Erection of Two Dwellinghouses and Garages
Name and Address of Applicant:	Mr. John Campbell Afton View Rigg Road CUMNOCK KA18 3JB
Name and Address of Agent	James R. Hamilton 33 Joppa COYLTON KA6 6JD

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

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

1. The proposed development would constitute the erection of two dwellings in the countryside without agricultural justification and contrary to the policy criteria relevant in respect of Policy RES13 of the Adopted East Ayrshire Local Plan. The proposal would therefore not be in accordance with Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy RES 13 of the Adopted East Ayrshire Local Plan.
2. The requisite visibility sightline splays of 2.5 metres by 120 metres cannot be achieved at the proposed site access onto the C97 public road. The approval of the proposed development would therefore have a detrimental impact on public road safety at this location.

**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.**

## APPENDIX

### 6. **APPLICATION NO 06/0546/OL: 21<sup>ST</sup> AYRSHIRE SCOUTS: LAND AT SAMSON AVENUE, KILMARNOCK**

There was submitted an executive summary sheet and report dated 27 November 2006 (both circulated) by the Head of Planning, Development and Building Standards on an application for proposed residential development at land at Samson Avenue, Kilmarnock.

It was noted that Members of the Committee had carried out a site visit prior to the meeting.

The Development Promotion Manager summarised the planning considerations in respect of the application; and gave the recommendation of the Head of Planning, Development and Building Standards: Refusal, for the reasons detailed in the report.

Councillor Campbell, seconded by Councillor Reid moved that the application be referred to the Development Services Committee with a recommendation for approval on the basis that the development was acceptable subject to the proposal being designed to accommodate the existing culvert and given the fact that, notwithstanding the flooding issue, other development had recently been approved in the area.

Councillor Reeves, seconded by Councillor Murray, moved as an amendment that the application be refused for the reasons detailed in the report.

On a division by a show of hands, the motion was carried by 5 votes to 3.