

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 09 JANUARY 2007

**06/1024/OL: RESIDENTIAL DEVELOPMENT IN OUTLINE
AT SITE OFF B7081
AT THORNTOUN ESTATE, CROSSHOUSE
BY BRAEHEAD FOODS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This is an outline application for 10 residential units. There are no other details of the layout or design of the dwellings and no detail of access/egress arrangements, which would have to be submitted at any reserved matters stage.

1.2 The application has been submitted in tandem with an outline application for an industrial unit for food processing at Moorfield North Industrial Estate which application will be considered separately by this Committee under Planning Ref 06/1030/OL. The applicant company's Managing Director is, at the time of writing this report, in the process of acquiring the residential site from a family member. He thereafter proposes, if planning consent is granted, to dispose of the site on the open market and has undertaken to invest all capital realised from the disposal in the applicant company. It is the applicants proposition, supported by a Business Expansion Study submitted in support of their application, that this investment is necessary to finance and enable the expansion of their significant and growing business in Kilmarnock and to allow for its relocation from its existing location at Bonnyton to the identified site at Moorfield North. This application is, given this context, fundamentally associated as an enabling development with the separate application to construct a new food processing unit at Moorfield.

1.3 The applicants' Managing Director as prospective owner of the site has undertaken along with the applicant company to enter into a Legal Agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure that any capital realised is invested in the applicant company to secure the development on the Moorfield North Industrial Estate.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 and

subject to the conditions indicated on the attached sheet, but that any decision notice not be issued until the Solicitor to the Council has concluded an agreement with the applicant under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the points identified within Section 7 of the report.

3. CONCLUSIONS

3.1 As indicated in Section 6 of the report, the application is not considered to be consistent with policy G5 of the Approved Ayrshire Joint Structure Plan. In addition, the proposal does not comply with policies in the East Ayrshire Local Plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

3.2 There are however, material considerations relevant to this application as indicated in Section 6 of the report. Whilst the proposal involves housing in the countryside outwith the settlement boundary and not within a designated housing site, the applicants have now provided an extended justification for the proposal in the form of a Business Expansion Study. In addition, the applicants' commitment to expanding their business within East Ayrshire has been illustrated through the submission of an application for a Food Processing Unit at Moorfield North. These actions amount to significant material considerations to be weighed against the policy analysis of the proposal detailed above and justify a reconsideration of the planning proposal.

3.3 Whilst the site bounds the Crosshouse to Springside Road, with the use of appropriate planting the visual impact of the development can be mitigated through the use of appropriate screen and boundary planting.

3.4 Braehead Foods is a significant and growing business. The expansion of this business and the safeguarding and creation of jobs is dependant on securing appropriate funding and any consent for housing development at this site will be significant in securing part of that funding. It is considered that there are material considerations presented that merit approval of the application notwithstanding the policy context. It would be necessary to ensure that the factory unit did indeed materialise and a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 could address that issue and related matters as detailed in Section 7 above.

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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**06/1024/OL: RESIDENTIAL DEVELOPMENT IN OUTLINE
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BY BRAEHEAD FOODS**

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 application for the development of ten houses in the countryside outwith the settlement boundary. The application requires to be considered by the Development Services Committee in terms of the scheme of delegation as the proposed development would constitute a significant departure from the development plan and if approved would require notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications (Scotland) Direction 1997.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is agricultural land which extends to approximately 0.57 ha. The site is outwith any settlement boundary and lies to the north of the B7081 between the villages of Crosshouse and Springside. The site lies immediately adjacent to the roadway and is bounded by agricultural land currently lying fallow. The site is close to Thorntoun which contains a mix of residential properties and 'Special Needs' Health Care units

2.2 **Proposed Development:** This is an outline application for 10 residential units. There are no other details of the layout or design of the dwellings and no detail of access/egress arrangements, which would have to be submitted at any reserved matters stage.

2.3 The application has been submitted in tandem with an outline application for an industrial unit for food processing at Moorfield North Industrial Estate which application will be considered separately by this Committee under Planning Ref 06/1030/OL. The applicant company's Managing Director is, at the time of writing this report, in the process of acquiring the residential site from a family member. He thereafter proposes, if planning consent is granted, to dispose of the site on the open market and has undertaken to invest all capital realised from the disposal in the applicant company. It is the applicants proposition, supported by a Business Expansion Study submitted in support of their application, that this investment

is necessary to finance and enable the expansion of their significant and growing business in Kilmarnock and to allow for its relocation from its existing location at Bonnyton to the identified site at Moorfield North. This application is, given this context, fundamentally associated as an enabling development with the separate application to construct a new food processing unit at Moorfield.

2.4 The applicants' Managing Director as prospective owner of the site has undertaken along with the applicant company to enter into a legal agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 to ensure that any capital realised is invested in the applicant company to secure the development on the Moorfield North Industrial Estate.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Scottish Environment Protection Agency (SEPA) has no objections to the proposal on the understanding that the foul drainage at the site is connected to the public sewer and the treatment of surface water is in accordance with the principles of SUDS.

The requirements of SEPA with regard to foul drainage connection to the public sewer, together with SUDS details could be addressed by attaching a condition and notes to any grant of consent.

3.2 East Ayrshire Council's Roads and Transportation Division has deferred any recommendation at outline stage but have commented that the development should be accessed from a single road junction and there should not be direct access from individual dwellings permitted onto B7081. The sightline standard for the new road junction shall be 2.5 m by 215 m and the new access road shall be to an adoptable road standard with a minimum width of 5.5 metres with standard turning heads at both ends of the road. Other matters such as parking provision are reserved until full details are available.

The requirements of the Roads Division with regard to a single access point and the width of the access road could be addressed at the detailed stage by attaching conditions to any grant of outline consent. The Roads Division has since confirmed that it will be possible to secure sightlines without recourse to a Legal Agreement.

3.3 Crosshouse Community Council has not responded to their consultation letter at the time of writing this report.

Noted.

3.4 Scottish Power has no objection to the development in principle however they have underground apparatus within the area of the proposal.

Noted.

3.5 West of Scotland Archaeology Services, Scottish Gas Networks and Scottish Water have not raised any adverse comments about the proposed development.

Noted.

3.6 East Ayrshire Council's Economic Development and Property Division provide ongoing business support to the applicant Company and support the company in its aspirations to move to new, better located and more suitable business premises.

They confirm that, in terms of the submitted Business Expansion Study commissioned as part of their wider business support package, capital gained from the sale of the potential housing site would be invested by the Applicants' Managing Director in the form of a Director's loan directly into the business. Capital gained would help address the funding gap that would otherwise exist in terms of advancing the factory project and is critical to securing the relocation of the applicants' business to the site at Moorfield North, subject of course to planning consent being granted for that development.

Noted. It is recognised that housing development at this site would help enable a significant and growing business to expand. Consent for housing at this site would part facilitate the development of a factory unit and ultimately the creation of local jobs for local people.

4. REPRESENTATIONS

4.1 There are no third party objections to the proposed development.

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).

Approved Ayrshire Joint Structure Plan (AJSP) Approved Version

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;

There is no demonstrated site specific locational need for this development at this location within the Rural Protection Area.

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

Housing at this site could, given the commitment to invest the sale proceeds in the Applicant Company, as is evidenced from the submitted Business Expansion Study, help prevent the possible loss from East Ayrshire of this thriving business enterprise by facilitating the expansion and relocation of the Applicant's Company to the identified site at Moorfield North. However it is not considered that this amounts to a full justification consistent with the terms of this criterion.

C contributes to rural land diversification; or

The housing does not in this instance contribute to rural land diversification.

D provides for the operational needs of agriculture and forestry.

No justification has been submitted to state that the proposed housing will provide for the operational needs of agriculture and forestry.

5.3 Whilst the applicant has provided a justification for the proposed development on the grounds of social and economic benefit it cannot be accommodated within the criteria of Policy G5. The proposal therefore does not meet with the provisions of Policy G5.

Ayrshire Joint Structure Plan new Finalised Version

5.4 COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the re-use and re-development 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 proposal does not fall under any of the above types of housing development and is therefore contrary to Policy COMM 5.

East Ayrshire Local Plan

5.5 Policy RES 13 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 RES 8 above.

Whilst the applicant has provided a justification for the proposed development on the grounds of social and economic benefit it cannot be accommodated within the criteria of Policy RES 13. The proposal therefore does not meet with the provisions of Policy RES 13.

5.6 Policy RES 17 will not permit residential development in the countryside where:-

- vi) The development would, in itself, constitute or add to sporadic or ribboning of development along public or private roads in rural locations.

The proposed development would constitute ribbon development. Given the potential for adverse visual consequences arising from such a built form, it is considered to be contrary to Policy RES 17.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application which might justify a departure from policy are the consultation responses received which are addressed in Section 3 of this report, the outline planning application submitted for a food processing unit at Moorfield

North Industrial Estate to be determined separately by this Committee under Planning Reference 06/1030/0L, the planning history of the site and the applicant's supporting statements including the Business Expansion Study .

Consultation Responses

6.2 The consultation responses do not raise any adverse comments with the exception of the sightline requirements which can be overcome with the provision of a centrally located access/egress arrangement which could be addressed as part of any subsequent detailed or reserved matters planning application.

Applicant's Supporting Statement

6.3 The applicant has submitted a statement of support with the application which seeks to justify the proposal as a result of its criticality in providing part funding to support the relocation of an important commercial development;

6.4 The applicants require to raise capital to assist with the further expansion of their operations as evidenced by the Business Expansion Plan. The company has considered the possibility of expansion on its present site but has concluded that this would only be a short term solution. They are now looking for a long term solution which they have concluded would involve moving to a designated site such as the Moorfield North Industrial Estate. The applicant's Managing Director has undertaken to assist in financing the shortfall of cash to enable this expansion to go ahead to acquire and thereafter, if Planning Consent is granted, to sell the land at Thorntoun with the benefit of Planning Consent and invest any capital realised in the applicant company in the form of a Director's Loan.

Outline Planning Application 06/1030/OL; Erection of Industrial Unit for Food Processing

6.5 This outline application which is to be considered separately by this Committee comprises the construction of new commercial premises to accommodate the expanding Braehead Foods enterprise. As indicated above, the funding for this expansion would in part be derived from income obtained from the sale of the housing site at Thorntoun.

Planning History

6.6 Planning Application 06/0649/FL: Residential Development in Outline at Land off B7081 Thorntoun Estate. This outline application was refused by the Central Local Planning Committee on 13 October 2006 on the grounds that:

1. The proposed development would be contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan by reason of there being no site specific locational need for this site. The proposal does not meet with any of the criteria set out in Policy G5.

2. The proposed development would be contrary to Policy RES 13 of the Adopted East Ayrshire Local Plan. The proposal does not meet with any of the criteria set out in Policy RES 13.

3. The proposed development would set an undesirable precedent for inappropriate development in the rural protection area.

4. The proposed development is not in accordance with Policy RES 17 of the East Ayrshire Local Plan as it comprises housing development in the countryside which would constitute ribbon development.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 The legal implications for the Council in the determination of this application would comprise entering into a legal agreement in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997. In terms of the agreement to be entered into the following matters would require to be addressed prior to commencement of the development.

1. The applicants' Managing Director shall evidence to the satisfaction of the Council that he has secured transfer of title to the housing site at Thorntoun into his name and that he has thereafter secured the sale of the site for residential use.
2. The applicants' Managing Director shall ensure to the satisfaction of the Council that all capital realised from the sale of the housing site for residential use is invested in the applicant's company and is thereafter utilised towards the purchase of the site at Moorfield North Industrial Estate and the construction thereon of a Food Processing Unit.
3. The applicants shall ensure that any funding gap remaining after the disposal of the site for residential use which requires to be made to secure the purchase of the site at Moorfield North Industrial Estate and the construction thereon of a Food Processing Unit is addressed to the satisfaction of the Council.
4. The applicants shall evidence to the satisfaction of the Council that they have purchased the site at Moorfield North Industrial Estate and have let a contract for the construction thereon of a Food Processing Unit.

8. CONCLUSIONS

8.1 As indicated in Section 6 of the report, the application is not considered to be consistent with policy G5 of the Approved Ayrshire Joint Structure Plan.

In addition, the proposal does not comply with policies in the East Ayrshire Local Plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise.

8.2 There are however, material considerations relevant to this application as indicated in Section 6 of the report. Whilst the proposal involves housing in the countryside outwith the settlement boundary and not within a designated housing site, the applicants have now provided an extended justification for the proposal in the form of a Business Expansion Study. In addition, the applicants' commitment to expanding their business within East Ayrshire has been illustrated through the submission of an application for a Food Processing Unit at Moorfield North. These actions amount to significant material considerations to be weighed against the policy analysis of the proposal detailed above and justify a reconsideration of the planning proposal.

8.3 Whilst the site bounds the Crosshouse to Springside Road, with the use of appropriate planting the visual impact of the development can be mitigated through the use of appropriate screen and boundary planting.

8.4 Braehead Foods is a significant and growing business. The expansion of this business and the safeguarding and creation of jobs is dependant on securing appropriate funding and any consent for housing development at this site will be significant in securing part of that funding. It is considered that there are material considerations presented that merit approval of the application notwithstanding the policy context. It would be necessary to ensure that the factory unit did indeed materialise and a legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 could address that issue and related matters as detailed in section 7 above.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to notification to the Scottish Ministers under the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 and subject to the conditions indicated on the attached sheet, but that any decision notice not be issued until the Solicitor to the Council has concluded an agreement with the applicant under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the points identified within Section 7 of the report.

Alan Neish
Head of Planning, Development and Building Standards

03 January 2007
(WH/MMM)
FV-AN

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Letters/Certificates.
3. Consultation Replies.
4. Applicant's Supporting Statements.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Outline Planning Applications 06/0649/OL & 06/1030/OL

Anyone wishing to inspect the above papers please contact Willie Harris, Planning Officer, on 01563 576787.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/1024/OL

Site of Proposal: Site Off B7081 Thorntoun Estate
Crosshouse
KILMARNOCK
KA2 0BH

Nature of Proposal: Residential Development

Name & Address of Applicant: Braehead Foods
Bonnyton Industrial Estate
Munro Place
KILMARNOCK
KA1 2NP

Name & Address of Agent: Arctec Designs Troon Ltd
23 Dallas Place
TROON
KA10 6JE

DPOs Reference: WH/MMM

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

(1) Before any development commences on site, the further approval of the Planning Authority shall be obtained in respect of the under mentioned matters hereby reserved.

- (a) The layout of the site.
- (b) The size, height and design of the proposed houses;
- (c) Details of the access arrangements;
- (d) The provision for open space and associated maintenance arrangements;
- (e) The provision for car parking;
- (f) The boundary treatments;
- (g) The landscaping of the site and associated maintenance arrangements;
- (h) Existing and finished site levels / floor levels.

REASON The approval is in outline only.

(2) The details to be submitted further to condition (1) above shall allow for the provision of amenity / screen planting to the south and west boundaries of the site consistent with the Roads Division's requirement for sightlines.

REASON In the interests of visual amenity and road safety.

(3) Notwithstanding the plans hereby approved the proposed access /egress point shall be positioned centrally in order to achieve the necessary sightlines of $x= 2.5$ m, $y= 215$ m in accordance with Roads Division's guidelines.

REASON In the interests of road safety.

(4) The residential development shall take full account of East Ayrshire Council's Design Guidance for New Residential Development in the Countryside.

REASON In the interests of visual amenity in the countryside.

(5) Notwithstanding the plans hereby approved the existing natural boundary features at the site shall be retained, and protected throughout the period of construction, consistent with the Roads Division's requirement for achieving appropriate sightlines.

REASON In the interests of visual amenity in the countryside.

(6) The details to be submitted further to condition (1) above shall make appropriate provision for the Council's three bin recycling policy.

REASON In the interests of residential amenity.

(7) The details to be submitted further to condition (1) above shall allow for an internal road access arrangement designed to, as far as is consistent with the Roads Division's guidelines, minimise the extent of new road construction works.

REASON In the interests of visual amenity in the countryside.

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