

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE - 28 JUNE 2005**

#### **DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 17 JUNE 2005 RELATING TO PLANNING APPLICATION NO 05/0226/FL: PROPOSED HOUSING DEVELOPMENT FOR THE ERECTION OF 92 DWELLINGHOUSES AT RIGG ROAD, CUMNOCK BY NORTHKIRK LIMITED**

#### **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 17 June 2005 regarding the above planning application.

### **2. BACKGROUND**

- 2.1** The Southern Local Planning Committee on 17 June 2005 considered a report dated 6 June 2005 (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 basis that the proposed development would represent an acceptable departure from the Development Plan for the following reasons, namely:-

- (i) there is currently a need for the significant release of land for housing development in an around the settlement of Cumnock, notwithstanding the review of the East Ayrshire Local Plan which is presently underway and as part of which the supply of housing land will be examined with a Draft Plan expected towards the end of this year; and
- (ii) the proposed development includes the provision of a new emergency access off Bute Road which would also serve as an emergency access to the wider Holmhead area, thereby enhancing public safety, subject to the imposition of appropriate conditions to ensure that the emergency access is not available for general vehicular access.

- 2.2** In respect of this application, 12 letters of objection with 20 signatories have been received, in addition to an objection from Scottish Water. Therefore, arrangements have been made for a Hearing to take place at this meeting.

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

**3.1** Should the Committee be minded to approve the application, the following will apply, namely:-

- (i) the application will require to be referred to the Scottish Ministers in terms of the Town and Country Planning (Development Contrary to Development Plan) (Scotland) Direction 1996 because the development would represent a significant departure from the approved Ayrshire Joint Structure Plan; and
- (ii) the issue of the Decision Notice should be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 69 of the Local Government (Scotland) Act 1997 with the applicant in respect of the matter detailed in Paragraph 5.8 of the attached report and payment in that regard having been received.

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

**4.1** The Committee are referred to the report dated 6 June 2005 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 6 June 2005, 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

20 June 2005

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.**

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 17 JUNE 2005**

**05/0226/FL: PROPOSED HOUSING DEVELOPMENT FOR THE ERECTION  
OF 92 DWELLINGHOUSES, PHASE 1, RIGG ROAD, CUMNOCK**

**APPLICATION BY NORTHKIRK LIMITED**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Full permission is sought for residential development of the site for 92 dwellings. The proposed dwellings comprise 20 Type B-1 (3 bedroom bungalow), 12 Type C (3 bedroom, semi-detached two storey villa) 15 Type C-Detached (3 bedroom, two storey villa) and 45 Type Ka (3 bedroom, detached bungalow)

1.2 The proposed development provides for new residential roads incorporating traffic calming measures, generally set out in a loop around which the proposed dwellings are located. Access to the site is to be taken from Rigg Road although an emergency access will be provided off Bute Road adjacent to Nos. 69 and 71 Bute Road. The proposed layout also shows an indicative future link road, connecting Roseburn Drive with the new residential road to serve the development. An area of public open space is also provided within the proposed layout and would also accommodate attenuation tanks for surface water disposal.

1.3 The proposed site layout plan submitted also indicates a proposed layout for future phases of the development of the wider area of agricultural land to the west and south of the application site described as Phase 1. Although not forming part of the application under consideration, the future phases of development would provide for a further 84 housing plots.

#### **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 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. As is indicated in Section 5 of the report, the application is considered to be

contrary to the development plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application, however, it is considered that these too support a recommendation to refuse the application as the development is contrary to the policy provisions of the EALP.

3.2 It is considered that the supporting statement submitted by the applicant does not provide any information that demonstrates an existing shortfall in the housing land supply in the East Ayrshire housing market area. Even in the event of a demonstrable shortfall, the applicant has failed to assess the suitability of the application site against other potential residential development sites in the Cumnock area.

***3.3 As indicated in section 6 of the report, a review of the East Ayrshire Local Plan is underway and as part of that process the supply of housing land will be examined with a draft plan expected towards the end of this year. It is considered that the present application is premature and, in effect, circumvents the comprehensive review process.***

#### ***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 represent 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: 17 JUNE 2005

05/0226/FL: PROPOSED HOUSING DEVELOPMENT FOR THE ERECTION  
OF 92 DWELLINGHOUSES, PHASE 1, RIGG ROAD, CUMNOCK

APPLICATION BY NORTHKIRK 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 it is subject to objections, is contrary to policy and is recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a greenfield site located to the north of Cumnock. The site is 5.4 hectares in area and comprises agricultural land. The site is bounded to the north by Rigg Road and the Kilmarnock Dumfries railway line, to the east by existing residential properties on Roseburn Drive and Bute Road, to the west by agricultural land and to the south by Holmhead Hospital and agricultural land. The application site forms part of a larger agricultural field in use as pastureland. The topography of the site is such that the land rises from Holmhead Hospital in the south to Rigg Road in the north.

2.2 **Proposed Development:** Full permission is sought for residential development of the site for 92 dwellings. The proposed dwellings comprise 20 Type B-1 (3 bedroom bungalow), 12 Type C (3 bedroom, semi-detached two storey villa) 15 Type C-Detached (3 bedroom, two storey villa) and 45 Type Ka (3 bedroom, detached bungalow)

2.3 The proposed development provides for new residential roads incorporating traffic calming measures, generally set out in a loop around which the proposed dwellings are located. Access to the site is to be taken from Rigg Road although an emergency access will be provided off Bute Road adjacent to Nos. 69 and 71 Bute Road. The proposed layout also shows an indicative future link road, connecting Roseburn Drive with the new residential road to serve the development. An area of public open space is also provided within the proposed layout and would also accommodate attenuation tanks for surface water disposal.

2.4 The proposed site layout plan submitted also indicates a proposed layout for future phases of the development of the wider area of agricultural

land to the west and south of the application site described as Phase 1. Although not forming part of the application under consideration, the future phases of development would provide for a further 84 housing plots.

### **3. CONSULTATIONS AND ISSUES RAISED**

**3.1 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to conditions:**

- 1. The site will require to be served by internal roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads Division. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming etc. and must be in place prior to commencing roadworks on site. The layout currently submitted would require minor amendments to geometry, off road parking and access locations. A road bond must be submitted by the developer prior to commencing building work on site**
- 2. Junction visibility splay areas of 2.5 m by 35 m will be required at all internal road junctions with no object greater than 1m in height allowed within these areas. 15m forward visibility is required at speed bends.**
- 3. No surface water must be allowed to discharge from driveways onto existing or proposed public roads.**
- 4. Parking requirement must be to Roads Development Guide 1996, including visitor parking.**

5. ***Any garages must be set back a minimum distance of 6 m from the rear of the footway / service strip.***
6. ***The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway or service strip to avoid overcarry of loose material onto the public road.***
7. ***Driveway manoeuvrability should be provided for off-road parking.***
8. ***The existing car park adjacent to the telephone box will require to be formalised and included within the proposals.***
9. ***The proposed driveways should be not less than 4.8 m in length by 2.5 m wide.***
10. ***Any gates will require to open inwards, away from the public road.***
11. ***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.***
12. ***Visibility sightline splay areas of 4.5m by 120m will require to be formed and maintained at the access point on the C23 Rigg Road, with no obstruction greater in height than 1m allowed within the splay areas formed.***
13. ***The frontage of the site along the C23 Rigg Road is to be kerbed to form a pedestrian refuge. Bus stops are to be provided either side of the B7083 Auchinleck Road where the proposed pedestrian link joins the existing footway. Details to be provided by East Ayrshire Council.***

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 indicated that the provision of infrastructure to serve this development is likely to be beyond reasonable cost and therefore objects to the proposed development. Scottish Water will, however remove its objection if the developer can demonstrate that the development will not have an impact on its assets, or that suitable infrastructure can be put in place to support the development.**

***The developer would require to resolve this issue directly with Scottish Water prior to any development commencing on site should the Committee be minded to approve the application.***

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposals provided that the drainage arrangements are to its satisfaction. All foul drainage from the development 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 sewerage system, either in the public sewers or within the curtilage of the development. SEPA would seek a condition requiring the applicant to obtain 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. As there are no detailed surface water drainage arrangements included within the application, SEPA asks that planning permission be withheld until these drainage arrangements are agreed. In principle SEPA will require the developer to install suitable SUDS for the site and, as the soils in the area are unlikely to be suitable for infiltration systems, surface treatment systems may be more appropriate for the site. All waste materials generated by this development that require to be removed such as construction, demolition materials and surplus excavated material, must be removed from the site by licensed waste carriers. Waste must be removed to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

***Since the receipt of the comments from SEPA, amended layout plans have been submitted indicating the installation of a SUDS system. Should the application be granted a note regarding the implementation of Sustainable Urban Drainage Systems could be attached to the planning permission. Furthermore, a note advising the developer to make early contact with SEPA could be attached to any planning consent if granted.***

3.4 Network Rail has no objection in principle to the proposed development subject to the developer adhering to guidance on requirements for constructional work on or near railway operational land. Network Rail has provided a copy of the guidance directly to the applicant. Network Rail has requested that the applicant provides a 1.8 metres high Network Rail approved expanded mesh or palisade fence along the mutual boundary and make provision for its future maintenance and renewal.

A condition can be attached to any consent granted for the proposed development to meet the requirements of Network Rail.

3.5 Power Systems has no adverse comments to make regarding the proposed development.

***Noted.***

3.6 British Gas Transco has commented that no mechanical excavation must be carried out within 500mm of Transco Plant that lies in the proximity of the application site.

***A note can be attached to any planning consent granted for the development regarding the comments of Transco.***

***3.7 Cumnock Community Council has not responded to the consultation letter at the time of writing.***

***Noted.***

3.8 East Ayrshire Outdoor Amenities Section has no objections to the proposed development but requests that any land held in the Neighbourhood Services account, damaged by the proposed development be re-instated to the satisfaction of the Outdoor Amenities Section.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 In addition to the objection received from Scottish Water, twelve letters of representations from 20 signatories have been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 My understanding for the reasons behind this development is due to a lack of homes in the area. By my calculations there are no less than 14 ongoing sites within the area that would be sufficient to meet the needs of the communities in which they are being built.

It is considered that the applicant has not demonstrated any existing shortfall in housing land within the East Ayrshire Housing Market Area. The policy implications are more fully described in section 5 of the report but it is correct that there are sites within the settlement boundary, either with planning consent or identified as housing sites, that remain undeveloped at this time.

4.3 A development of this size would have an adverse effect on the current education, highways and utilities. The current highway adjacent to the proposed development would be unsuitable for the large increase in traffic this would generate.

***In terms of impact on educational facilities, it is for the Local Authority to make appropriate provision to serve the needs of communities. In terms of access, this will be taken from Rigg Road and appropriate assessment of this has been undertaken. The Roads and Transportation Division has raised no issues of either capacity or road safety. Although Scottish Water has objected to the proposed development, this is based on cost criteria implications that are matters to be resolved between Scottish Water and the applicant. No other significant infrastructure implications arise from the proposed development.***

4.4 The proposed development site is outwith the settlement boundary of Cumnock in the East Ayrshire Local Plan. There are several areas earmarked on the plan for housing development. The development is contrary to the development plan

Noted. The policy implications relating to the proposed development are discussed more fully in section 5 of this report.

4.5 The proposed development would have a negative effect on my current open outlook and privacy, especially if the houses are more than one storey high.

***The loss of a view is not a material consideration in the determination of this application. The objector's property lies some 155 metres west of the present application site and there will be no loss of privacy resulting from the present application.***

4.6 The proposed development is only Phase 1 and eventually Phase 2 which would involve a further 90 plus houses would mean a loss of privacy.

The present application relates to the proposed Phase 1 development site.

Objections based on indicative proposals for a Phase 2 development are not pertinent to the present application as it requires to be considered on its own merits.

4.7 There would be noise impact and disruption as no one knows how long the proposed build would take.

The potential loss of amenity during the construction phase of the proposed development would be temporary in nature

4.8 We would like to emphasise the close proximity (less than 5 metres) of the proposed construction site to our main ward within Holmhead Hospital. The treatment and care of physically frail older people could be severely compromised through noise and air pollution from the proposed works.

***It is accepted that the remaining open parts of Holmhead Hospital lie adjacent to the proposed development site. It is considered that the imposition of appropriate conditions to ensure the provision of screen fencing and restriction of working hours on site could assist in minimising disturbance from construction works.***

4.9 Recent flash flooding from the field in which the development is proposed has highlighted the vulnerability of the drainage in this area. Construction works may worsen the situation and cause undue disruption to the hospital patients and of course inevitable damage to the grounds and buildings.

***The proposed development will provide for an appropriate surface water treatment and disposal system, which, it is considered in the longer term, should mitigate the problems described by the objector.***

4.10 The proposed development will have an adverse impact on the mains water supply as it runs through this field.

It is considered that this is a matter for the applicant to resolve with Scottish Water to ensure that there will be no adverse impact on existing water supplies in the locality.

4.11 There has been insufficient detail provided by the applicant with respect to the impact on existing and proposed traffic infrastructure, environmental impact study, screening from adjacent sites and the adequate provision of social housing amongst other things.

***In terms of access, this will be taken from Rigg Road and appropriate assessment of this has been undertaken. The Roads and Transportation Division has raised no issues of either capacity or road safety with regard to the proposed development. The proposed development does not fall within the scope of the Environmental Impact Assessment Regulations. A condition can be attached to any consent granted for the proposed development to ensure appropriate screening of the site where necessary. The proposed development does not include any provision for social housing. However, there is no particular requirement for the applicant to consider this as part of this application.***

4.12 While we have no particular objections to the development going ahead in this area, we object to the use of our cul-de-sac in Bute Road as an access to this housing development. The access is very narrow and can only take one car at a time. The safety of our children is also of concern.

The proposed access route through this cul-de-sac at Bute Road is for emergency purposes only and would not be an access in full time use. It is likely that the emergency access would be provided with collapsible bollards to prevent regular use.

4.13 There are two existing garages belonging to the semi-detached properties adjacent to the access which according to the title deeds cannot be sold separately from the houses.

Two domestic garages are located at the end of the Bute Road cul-de-sac where the proposed emergency access road is to be provided. It is the intention of the applicant to acquire these garages and demolish them to implement the emergency access proposal. It is understood that the

applicant will provided replacement garages for the householders affected.

However, this is essentially a legal matter and is not a valid ground for objection in planning terms.

4.14 The volume of traffic such a development would bring to the Auchinleck Road and resulting traffic noise would affect the Hoyle Crescent estate.

It is not considered that that the proposed development would have any significant impact either in road safety, noise or capacity terms on the residential properties on Hoyle Crescent. It should be borne in mind that this section of road was formerly part of the A76 trunk road at which time the volume of traffic would have been considerably greater than the volume that would arise from the proposed development.

4.15 We do not consider the road at the junction onto Bute Road to be suitable for two-way traffic, especially in the case of emergency vehicles. We do not consider the road to be wide enough for traffic other than its present usage.

The proposed access route through this cul-de-sac at Bute Road is for emergency purposes only and would not be an access in full time use. It is likely that the emergency access would be provided with collapsible bollards to prevent regular use. The Roads and Transportation Division has not raised any objections or concerns regarding the suitability of the road for this purpose.

4.16 As residents of Hoyle Crescent we will lose our privacy and lovely open outlook, the two main reasons we bought our house and paid the higher price for it. We will be directly overlooked by these new properties and their boundary will be right next to ours.

***The loss of a view is not a material consideration in the determination of this application. The objector's property lies some 100 metres south west of the present application site and***

***there will be no loss of privacy resulting from the present application.***

4.17 The proposed development will have a major impact on the sewage network system which we believe at present is running at full capacity.

While Scottish Water has objected to the proposed development, it is based on cost criteria which is a matter to be resolved between Scottish Water and the applicant.

4.18 The proposed development would have a huge impact on dental and GP practices.

It is a matter for the local health authority to ensure appropriate health service provision to serve the local communities.

4.19 During the removal of topsoil for the proposed building of Phase 1 the existing field drains would be destroyed. Would the area covered by Phase 2 of the proposed development be left undisturbed, with current field drains still in place, until planning permission is sought for this phase.

The application relates to the development of the Phase 1 application site only. The applicant would require to agree the appropriate means of surface water treatment and disposal with Scottish Water and SEPA. This may require the provision of such infrastructure during the construction phase to prevent any adverse impacts on the existing surface water drainage system.

4.20 The proposed development will result in the devaluation of our property, in which we currently enjoy privacy, solitude and wildlife from our back garden. This will be replaced by car pollution, light pollution, noise and a feeling of living in a goldfish bowl.

The alleged devaluation of property as a result of the proposed development is a not valid ground for objection and is not a material consideration in the determination of this application. The objectors'

property lies some 65 metres from the current application site and it is considered that the proposed development will not have any significant adverse impact on the objectors' property.

4.21 The proposed development will put added pressure on local amenities. Car parking in Cumnock is already extremely difficult.

***Noted.***

4.22 The submitted plans give no indication of the tall trees currently growing at Holmhead Hospital. We object to the removal of these trees if that is proposed.

It is understood that the trees lie within the hospital site and not within the application site. Nonetheless, the applicant has indicated that no trees will be felled as a result of the proposed development.

4.23 The plans also showed the proposed roads for Phase 2. Is it proposed that these roads be constructed at the same time as those in Phase 1? If so then when plans are submitted for Phase 2, this infrastructure would already be in place and would render any objections for Phase 2 pretty much useless – a 'fait accompli'.

The present application relates to Phase 1 only. Should consent be granted for Phase 1, this would not include approval for construction of roads in Phase 2 and this would require to be the subject of a further application, at which time the objectors would have a further opportunity to make further representations.

4.24 We were most concerned at the lack of communication from the applicant proposing the development. No residents here received letters outlining these proposals, despite the enormity of the changes that will affect us if this project goes ahead.

None of the properties in Hoyle Crescent are conterminous with the application site and therefore did not require to be formally notified of the

proposed development. Nonetheless, due to the potential wider impact of this development, it was advertised in the local press.

4.25 The large greenfield site is zoned for agricultural use and should remain so. There are more than enough undeveloped areas within Cumnock that could be developed for houses in this area. With all the development that is going on i.e. Barony area, Auchinleck, Ochiltree and also Holmhead itself, this development cannot be justified.

Noted. The policy implications relating to the proposed development are discussed more fully in section 5 of this report.

4.26 Our living room window is only four feet from the boundary of the proposed development and any development would be an immediate infringement of our privacy. Any fence erected to solve the problem of privacy would cut off light entering our living room.

The objector is referring to the impact of a future phase of development on his property. This is not the subject of the current application and his property lies some 110 metres from the nearest part of the application site.

## **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 Policy ADS3 states that new residential, commercial, cultural, educational and community development shall be directed to, and located within, settlements as defined in local plans.

This proposal is located outwith the settlement boundary of Cumnock and the proposal is therefore contrary to policy ADS3.

5.3 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;
- B can be justified in terms of social and economic benefit to the community;
- C contributes to rural land diversification: or
- D provides for the operational needs of agriculture and forestry.

The proposal cannot be justified in terms of any of the above criteria. It is therefore contrary to policy G5.

#### East Ayrshire Local Plan

5.4 Policy SD3 states that, within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only in five stated circumstances these being where the development:

- (i) comprises an acceptable form of residential use as detailed in Policy RES13 of the Local Plan; or
- (ii) can be fully justified in terms of site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community; or
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture or forestry.

The proposed development cannot be justified against any of the above 5 criteria. It is therefore contrary to policy SD3 of the EALP.

5.5 Policy RES2 states that, with the exception of dwellings covered by Policies RES13 and 14, proposals to extend the greenfield supply of land for residential development outwith, but adjacent to, the settlement boundaries will not be acceptable unless five stated criteria are fully satisfied, these being:

- (i) there is a demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area;

While the applicant has submitted a short statement regarding the perceived demand for residential development in Cumnock, there is no

demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area.

(ii) the site can be demonstrated to be effective and contribute to output during the shortfall period;

The question of whether the site is effective or not is not for debate as criterion (i) above is not met by the development.

(iii) the proposal meets the terms of the Housing Development Strategy of the Local Plan;

The proposal does meet with the terms of the Housing Development Strategy.

(iv) road access and all other services and infrastructure can be provided to the standards required by the relevant public and statutory service providers; and

It is not considered that there are any significant infrastructure issues that cannot be overcome in the implementation of this development.

(v) the proposal accords with the Council's policies with regard to design and layout and has minimal impact on the visual and natural environment.

The northern part of the site sits on the ridgeline and would break the skyline and therefore be visually intrusive when viewed from Cumnock.

The layout and location of the area of public open space within the development, not being centrally located and not directly overlooked by dwellings, is not consistent with policy.

5.6 Policy RES19 requires all housing developers to provide areas of recreational and amenity open space in their developments to the indicative basic standards set out in Schedule 3 of the Local Plan. The policy states also that the precise type, size, location and design of the open space required is dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

The amount of open space proposed is acceptable. However its location in relation to adjacent dwellings is not considered to meet the requirement for the open space area to be overlooked.

5.7 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

The Council's private open space standards are met by the proposed development.

**The application is contrary to the provisions of Policy G5 of the approved Ayrshire Joint Structure Plan and Policies RES 2 and RES 19 of the adopted East Ayrshire Local Plan.**

5.8 Policy TLR5 indicates that applicants will be requested to contribute by legal agreement to the provision of appropriate leisure and recreational facilities where 4 or more houses are proposed.

***The applicant has indicated a willingness to make a contribution.***

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

**6.1 The material considerations relevant to the determination of the application are the consultations, the representations detailed in Section 4 above, the planning history of the site and the statement submitted by the applicant in support of the application.**

### Consultations

6.2 Apart from the objection from Scottish Water, there are no significant issues raised that would suggest refusal of the application. The issue regarding drainage of the site is a matter that the applicant would require to resolve directly with Scottish Water.

## Representations

**6.3 It is considered that the representations made in terms of the physical development of the site are either not valid or have not been substantiated through the consultation process. It is considered that loss of privacy resulting from the potential further phase of development cannot be fully assessed at this stage as only the merits of the current application can be considered. Any impacts resulting during the construction phase would be temporary in nature or could be mitigated by use of conditions. The representations made regarding the need, justification and the departure from the Development Plan are valid in this case and are material to the determination of the application. In this regard the representations would presume against the proposed development.**

## Supporting Statement

**6.4 The applicant has provided a short report from a firm of estate agents to provide a summary of demand for residential dwellings in Cumnock having acted as selling agent for other developments by the current applicant. The report states that despite the applicant's current success of the development at Pennylands Road, Auchinleck, there has been a considerable number of enquiries from prospective purchasers wishing to purchase in Cumnock and not in any surrounding village and town. The agents have waiting lists for properties in the Cumnock area,**

***especially new builds. The proposed development would provide for 92 dwellings of a mixture of house types with a price range from £90,000 - £170,000. Strong demand is anticipated and the agents have a number of parties who would be interested in purchasing properties from plan. There has been little substantial development in Cumnock in recent years and the development at Rigg Road would be much sought after.***

Notwithstanding the contents of the supporting statement, Policy RES2 of the East Ayrshire Local Plan states that residential development outwith but adjacent to settlement boundaries will not be considered acceptable unless there is a demonstrated shortfall in the supply of effective land within the East Ayrshire Housing Market Area. It is considered that the information submitted does not address this issue. In order to meet the provisions of Policy RES2, a far more detailed analysis of housing demand and supply would be required.

***East Ayrshire is considered as one Housing Market Area and the applicant therefore would require to demonstrate conclusively that there is a shortfall across the whole district by examining the effective housing land supply and applying demand figures to it. Simply stating that Cumnock lacks housing land is not sufficient to meet with the provisions of Policy RES2. The applicant has been made aware that a review of the East Ayrshire Local Plan is underway and as part of that process the supply of housing land will be examined with a draft plan expected towards the end of this year. The applicant was requested to consider sisting the present application pending this review but has requested that the application be determined on its merits.***

#### Planning History

**6.5 An outline planning application (Ref: CD/95/0126/OPP) for outline consent for the residential development of a larger site including the**

***present application site was refused by the former Cumnock and Doon Valley District Council on 19 August 1995.***

## **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 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. As is indicated in Section 5 above, the application is considered to be contrary to the development plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to this application, however, it is considered that these too support a recommendation to refuse the application as the development is contrary to the policy provisions of the EALP.

8.2 It is considered that the supporting statement submitted by the applicant does not provide any information that demonstrates an existing shortfall in the housing land supply in the East Ayrshire housing market area. Even in the event of a demonstrable shortfall, the applicant has failed to assess the suitability of the application site against other potential residential development sites in the Cumnock area.

***8.3 As indicated in section 6 above, a review of the East Ayrshire Local Plan is underway and as part of that process the supply of housing land will be examined with a draft plan expected towards the end of this year. It is considered that the present application is premature and, in effect, circumvents the comprehensive review process.***

## **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 represent a significant departure from the development plan.

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

HM/HM  
06 June 2005  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Notices/certificates.
3. Consultation responses.
4. Letters of representation.
5. Approved Ayrshire Joint Structure Plan (1999).
6. Adopted East Ayrshire Local Plan (2003).
7. Previous applications CD/95/0126/OPP
8. Supporting Statement by Applicant

Any person wishing to inspect the background papers listed above, should contact Mr. Hugh Melvin on 01563 555481.

**Implementation Officer: Dave Morris**

Application no: 05/0226/FL

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Location	Phase 1, Rigg Road CUMNOCK
Nature of Proposal:	Proposed housing development for the erection of 92 dwellinghouses
Name and Address of Applicant:	Northkirk Limited 14 Walnut Road KILMARNOCK
Name and Address of Agent	Thomson McCrea 9 Old Bridge Street AYR

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DPO's Ref: {  
PPO's Ref: [Hugh Melvin ]

The above FULL application should be refused on the following grounds:-

- (1) The proposed residential development site lies outwith the settlement boundary of Cumnock as defined in the East Ayrshire Local Plan. The proposal is therefore contrary to Policy ADS3 of the approved Ayrshire Joint Structure Plan and Policy SD3 of the adopted East Ayrshire Local Plan
- (2) The applicant has failed to demonstrate any shortfall of effective housing land within the East Ayrshire Market Housing Area nor any justified specific locational need for the development. The proposal is therefore contrary to Policy G5 of the approved Ayrshire Joint Structure Plan and Policies RES2 and RES13 of the adopted East Ayrshire Local Plan
- (3) The proposed development does not accord with the Housing Development Strategy stated in the adopted East Ayrshire Local Plan which encourages the growth of all settlements, where possible, to meet housing demand generated locally within each particular settlement concerned.
- (4) There is sufficient effective housing land within Cumnock to meet the local housing needs of the settlement, and no further additional land release is considered justified in terms of the East Ayrshire Local Plan Housing Development Strategy.

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