

**EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE – 6 MARCH 2007**

**DECISION OF THE NORTHERN AREA LOCAL PLANNING COMMITTEE HELD ON 16 FEBRUARY 2007 RELATING TO PLANNING APPLICATION NUMBER 06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING PLOTS AT LAND FRONTING MAXWOOD ROAD, CASTLEVIEW AVENUE, GALSTON**

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

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of the decision of the Northern Area Local Planning Committee held on 16 February 2007 regarding the above planning application.

**2. BACKGROUND**

- 2.1 The Northern Area Local Planning Committee on 16 February 2007 considered a report dated 5 February 2007 (attached as an Appendix) by the Head of Planning, Development and Building Standards and agreed to refer the application to the Development Services Committee with a recommendation for approval on the grounds that the application would improve the environmental and visual amenity of the area.
- 2.2 No objections were submitted in respect of this application and, therefore, there is no requirement for a Hearing.

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

**4. POLICY IMPLICATIONS**

- 4.1 The Committee are referred to the report dated 5 February 2007 by the Head of Planning, Development and Building Standards, attached as an Appendix to this report.

**5. RECOMMENDATION**

- 5.1 It is recommended that the Committee consider the planning application with reference to the report by the Head of Planning, Development and Building Standards dated 5 February 2007 and with consideration to the recommendation of the Northern Area Local Planning Committee as detailed in paragraph 2.1 above.

Elizabeth Morton  
Depute Chief Executive/Executive Director of Corporate Support

20 February 2007  
CB/KS

**LIST OF BACKGROUND PAPERS - NIL**

Any person wishing further information on this report should contact Bill Walkinshaw, Administration Manager on Tel No (01563) 576153.

**Implementation Officer: Christine Baillie**





**EAST AYRSHIRE COUNCIL  
NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY  
2007**

**06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING  
PLOTS  
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE,  
GALSTON  
BY D. LINDSAY**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

1.2 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.1 As is 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 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 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee.

**Alan Neish**

**Head of Planning, Development and Building Standards Division**

**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

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007  
06/1023/OL: RESIDENTIAL DEVELOPMENT FORMING TWO BUILDING  
PLOTS  
AT: LAND FRONTING MAXWOOD ROAD/CASTLEVIEW AVENUE  
GALSTON  
BY D. LINDSAY**

### **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 contrary to the Development Plan.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The outline planning application site comprises approximately 775 square metres of open ground located in the Rural Protection Area, immediately adjacent to the settlement boundary of Galston.

2.2 The outline application site is bounded to the north by the access road to the properties located at Barr Mill and to the south by the access road to Wallacehills kennels. The application site is bounded to the west by an access road and an area of open space located within the settlement of Galston, and to the east by open space located in the Rural Protection Area.

2.3 **Proposed Development:** The current application proposes the formation of two residential plots in outline. The proposed plot one measures approximately 420 square metres and plot two measures approximately 356 square metres.

2.4 This outline application for the formation of two residential plots, is a resubmitted application which represents a similar proposal to a previous application (05/0199/FL) which was withdrawn after discussions with this Division.

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

3.1 Galston Community Council has offered no objections to the application.

***Noted.***

3.2 Scottish Power have made no objection to the proposal.

***Noted.***

3.3 Scotland Gas Networks have no objection to the proposal.

***Noted.***

3.4 East Ayrshire Council's Roads and Transportation Division has offered no objection to the proposal but have recommended that the proposed building line for the plots should be set back to allow for the construction of a two metre wide footway over the frontage of the plots. In addition the Roads Division has commented that since the application site does not abut a public road, the existing road would require to be extended over the frontage of the proposed plots.

***Should the application be approved, since the proposal is in outline any details relating to roads issues could be dealt with by the future submission of a reserved matters application.***

3.5 East Ayrshire Council's Roads and Transportation Division Flooding Section have offered no objection to the proposal. However, the Flooding Section states that the applicant will require to consider the potential surface water flow path from the adjacent road in extreme rainfall events

***Noted***

#### **4. REPRESENTATIONS**

4.1 The application was advertised in the Kilmarnock Standard and no letters of objection have been received in relation to the proposal.

#### **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)

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 site specific locational need
- B can be justified in terms of social and economic benefit to the community
- C contribute to rural land diversification: or
- D provides for the operational needs of agriculture and forestry

***The applicant has provided additional information stating that the proposed site is vacant and is unused and once formed part of the Strathaven to Kilmarnock railway line. According to the applicant the site is frequently the depository of persistent fly tipping. In this instance the applicant has not demonstrated a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. In addition, the applicant has not justified the proposal in terms of social and economic benefit to the community nor does the proposal contribute to rural land diversification. Furthermore, the applicant has not demonstrated that the proposed residential plots are required for the operational needs of agriculture or forestry. Consequently the proposal is contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan.***

Adopted East Ayrshire Local Plan (EALP)

5.3 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:

- (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.

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.

***The applicant's submitted supporting information does not provide details of a site specific locational need to justify the location of the proposed houses in the Rural Protection Area. Furthermore, the proposed residential plots are not required for full time agricultural or forestry workers employed directly on the land to which the proposal relates. The application is therefore considered to be contrary to policy RES 13 of the 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 where:

- (i) comprises an acceptable form of residential use as detailed in Policy RES 13 of the Local Plan; or

***As previously stated the application does not conform with Policy RES 13 of the Local Plan.***

- (ii) can be fully justified in terms of site specific locational need; or

***The applicant's submitted supporting information has not provided details of a site specific locational need to justify the location of the proposed house in the Rural Protection Area.***

- (iii) can be fully justified in terms of social and economic benefit to the community; or

***The applicant has not justified the proposal in terms of social or economic benefit to the community.***

- (iv) contributes to rural land diversification

***It is considered that the proposal does not contribute to rural land diversification.***

- (v) provides for the operational needs of agriculture or forestry.

***The applicant has not provided evidence to support the proposal in terms of the operational needs of agriculture or forestry.***

***The proposal does not comply with any of the above mentioned criteria for residential development.***

**Consequently, the proposal is contrary to Policy SD3 of the Local Plan.**

5.5 Policy RES 17 states that residential development in the countryside will not be permitted in nine stated circumstances. Three of those circumstances are pertinent to the application, these being:

(iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries.

***It is considered that the proposed residential plots would constitute an inappropriate extension of development into the countryside as Maxwood Road is seen as a strong defensible boundary which should not be breached.***

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

***It is considered that approval of this application would lead to ribboning development along this road in a rural location.***

(ix) where the development would not meet the service requirements of the Council as a Roads Authority or the standards of all appropriate statutory undertakers and other service providers.

***The Council's Roads and Transportation Division has stated that as the application site does not abut a public road the applicant will require to extend the public road over the frontage of the proposed plots. In addition the Roads Division will require the formation of a two metre wide footpath over the frontage of the proposed plots.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the planning history, the letter of support, impact on amenity and the Ayrshire Joint Structure Plan Finalised Version.

### Consultations responses

6.2 It is not considered that any of the consultation responses received indicate that the application should be refused.

### Representations received

6.3 No letters of objection have been received in connection with the application.

### Planning History

6.4 An outline planning application 05/0199/OL for the formation of two residential plots was withdrawn on 14/09/2005 by the applicant after discussions with this Division.

### Letter of Support

6.5 The applicant has provided a letter of support stating that the proposed site once formed part of the Strathaven to Kilmarnock railway line and that the site is currently vacant and is frequently the depository of fly tippers.

***In this instance the applicant has not provided details of a site specific locational need to justify the location of the proposed residential plots in the Rural Protection Area. It is the responsibility of all landowners where fly tipping is problematic, to take measures to remove any dumped materials that cause the site to have an adverse visual impact. Fly tipping is not a justification for approving a dwelling contrary to policy; such an approach would actually be likely to encourage more fly tipping.***

6.6 In addition, the applicant considers that the proposed development site is located immediately adjacent to the Galston settlement boundary and that an alteration to the settlement boundary to accommodate the proposal could be undertaken without compromising the Council's ability to retain its policy stance.

***It is acknowledged that the proposed application site is located immediately outwith the Galston settlement boundary. However, the proposed site is located within the Rural Protection Area and it is not considered that the supporting information justifies a site specific locational need that would merit approval of the application. In fact the dwelling would constitute an inappropriate extension of development into the countryside.***

### Impact on Amenity

6.7 Taking into account that the proposal includes the removal of part of the Rural Protection Area at this location it is considered that the proposal would result in a significant detrimental impact on the appearance of the wider area.

### Ayrshire Joint Structure Plan Finalised Version

6.8 Policy COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and

clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

6.9 The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential developments 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 outline application site for residential plots is located in the Rural Protection Area, outwith the settlement of Galston and is therefore considered to be contrary to Policy Comm 5 of the Finalised Version of the Ayrshire Joint Structure Plan. In addition, the proposal does not conform with Policy Comm 5 because the residential plots are not proposed to meet the operational requirements of agriculture or rural business.***

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

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

## **8. CONCLUSIONS**

8.1 As is 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 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 As indicated in Section 6 there are material considerations relevant to this application which are considered to be significant enough to support the refusal of the application. The applicant's supporting information has been assessed within this report but does not indicate that the application should be approved contrary to the Development Plan.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning Development and Building Standards it will require to be referred to the Development Services Committee, as there would be a significant breach of Council Policy.

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

05 February 2007  
(JL/RH)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Consultation responses
3. Letter of support
4. Adopted East Ayrshire Local Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Ayrshire Joint Structure Plan Finalised Version
7. Statutory Notices and Certificates
8. Relevant Planning applications:  
05/0199/FL

Anyone wishing to inspect the above papers please contact Jane Little,  
Planning Officer, on 01563 576768.

Implementation Officer: Dave Morris

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No. 06/1023/OL

---

Site of Proposal:	Land fronting Maxwood Road/Castleview Avenue, GALSTON
Nature of Proposal:	Residential Development Forming Two Residential Plots
Name & Address of Applicant:	D. Lindsay 1 Maxwood Holdings Galston KA4 8LZ
Name & Address of Agent	Ross McKay Architects Shalmstry 1 Ardlochan Terrace Maidens Girvan KA26 9NX

---

DPOs Reference: JL/RH

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

1. The proposed development would be contrary to Policies SD3 and RES 13 of the East Ayrshire Local Plan in that the applicant has not successfully demonstrated a site specific locational need for the proposal.
2. The proposed development is contrary to the requirements of Policy RES 17 of the Adopted East Ayrshire Local Plan in that it proposes residential plots that would constitute an inappropriate extension of development into the countryside.
3. The proposed development would be contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy COMM5 of the Finalised Ayrshire Joint Structure Plan in that the applicant has not demonstrated a site specific locational need for the proposal.

**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.**