

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE – SITTING AS A PLANNING COMMITTEE – 6 MARCH 2007**

#### **DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 26 JANUARY 2007 RELATING TO PLANNING APPLICATION NO 06/0575/FL: PROPOSED ERECTION OF A DWELLINGHOUSE ON A PLOT OF GROUND ADJACENT TO WINDYEDGE, WATERSIDE, BY PATNA**

#### **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 26 January 2007, regarding the above planning application.

### **2. BACKGROUND**

- 2.1** The Southern Local Planning Committee on 26 January 2007 considered a report dated 15 January 2007 (attached as an Appendix) by the Head of Planning, Development Building Standards, and agreed that this application be referred to the Development Services Committee, Sitting as a Planning Committee with a recommendation for approval, on the basis that the proposed Development represented an acceptable departure from the Development Plan since the design was considered acceptable and subject to condition that the applicant provide a full turning area to be located within the curtilage of the Dwellinghouse; REASON: to enable all vehicles using the single track access road to turn safely. It was also agreed to remit the Head of Planning, Development and Building Standards to attach the appropriate conditions and reasons to the consent.

- 2.2** One objection was received in respect of this application. However, the objector was neither present nor represented at the meeting of the Southern Local Planning Committee held on 1 December 2006 and that members of the Committee had the opportunity to attend a site visit in respect of this application prior to the meeting on 26 January 2007. 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 15 January 2007 by the Head of Planning, Development and Building Standards, attached as an Appendix to this report.

### **5. RECOMMENDATION**

**5.1.1** It is recommended this Committee consider the planning application with regard to the report by the Head of Planning, Development and Building Standards dated 15 January 2007, and with consideration to the recommendation by Southern Local Planning Committee as detailed in paragraph 2.1, above.

Elizabeth Morton  
Depute Chief Executive/Executive Director of Corporate Support

9 February 2007

RB/SW

#### **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: Robert Beaton, Administrative Officer.**

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 26 JANUARY 2007**

**06/0575/FL: PROPOSED ERECTION OF A DWELLINGHOUSE ON PLOT OF  
GROUND ADJACENT TO WINDYEDGE, WATERSIDE BY PATNA**

**APPLICATION BY MR AND MRS GARDINER**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

Full planning permission is sought for the erection of a single storey, 6 apartment dwellinghouse with integral garage on the site. A small sun lounge would be attached to the rear of the dwellinghouse which is to be rendered with smooth banding around windows and doors and along the basecourse. Natural slate or slate look-a-like tiles are proposed for the roof. A 1.2 metre high post and wire fence is proposed around the site boundary. A vehicular access is to be formed from/onto the private access road.

**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 no material considerations relevant to this application which would justify changing the recommendation from refusal.

3.2 The proposed development is contrary to EALP in terms of roads policy and also in terms of design, materials and colour of finish of the dwellinghouse

**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: 26 JANUARY 2007

06/0575/FL: PROPOSED ERECTION OF A DWELLINGHOUSE ON PLOT OF  
GROUND ADJACENT TO WINDYEDGE, WATERSIDE BY PATNA

APPLICATION BY MR AND MRS GARDINER

### 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 a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation because the proposed development is subject to objections and is recommended for refusal.

1.2 The application was first presented to the Southern Local Planning Committee on 01 December 2006 at which time the Committee agreed to undertake a site visit prior to determination of the application.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the north-east side of a private access road leading to the A713 road at Waterside between Dalmellington and Patna. Before meeting the A713 the access road crosses a freight only railway line. Where the site fronts it the access road rises steadily from south-east to north-west. From the access road the site levels rise north and east till they reach the base of a slope near the top of which is a dismantled railway track associated with the former mine workings in this area. The base of this slope marks the north-east boundary of the site. To the north-west and south-east the site is bounded by the curtilages of adjoining residential properties. The site is overgrown with shrubs, young trees and other wild vegetative growth. The application site is located within the Waterside Outstanding Conservation Area and is adjacent to a Scheduled Ancient Monument (Miner's Rows and Mineral Railway, North of Waterside)

2.2 **Proposed Development:** Full planning permission is sought for the erection of a single storey, 6 apartment dwellinghouse with integral garage on the site. A small sun lounge would be attached to the rear of the dwellinghouse which is to be rendered with smooth banding around windows and doors and along the basecourse. Natural slate or slate look-a-like tiles are proposed for the roof. A 1.2 metre high post and wire fence is proposed around the site boundary. A vehicular access is to be formed from/onto the private access road.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has recommended that this proposed development should be refused as it fails to satisfy the requirements of Section 2.3.8 (Provision of Roads in Rural Areas) of the 1996 Roads Development Guide as amended June 2005 whereby up to 5 individual dwellinghouses may be served off an existing private access road. In this instance there are already 7 individual dwellinghouses served off this private access road so any further proposed dwellinghouses would trigger a requirement to upgrade the whole of the private access road all the way from the site in question to its junction to the A713 to an adoptable standard.

***This application does not seek to make any improvements to the road. In a supporting statement the applicant's agent indicates that the existing roadway is perfectly suitable (without specifying how) to take the additional traffic even though this does not comply with policy. To upgrade the road would be financially prohibitive for the development as it is unlikely that other users of the road would be willing to share the costs estimated to be well in excess of £25,000. The statement acknowledges the proposed development is contrary to policy and nothing is contained in the supporting statement which would outweigh that fact.***

3.2 East Ayrshire Environmental Health Section points out that the area around the site has been subject in the past to mine workings so there may be ground contamination and ground stability issues to consider. Accordingly conditions should be imposed to ensure that before any development commences a comprehensive contaminated land investigation is undertaken and identified remedial measures carried out.

***If this development was to be approved appropriate conditions could be imposed along the lines recommended.***

3.3 Scottish Water has no objection to the proposed development.

***Noted***

3.4 The Scottish Environment Protection Agency has no objection pointing out that a septic tank and blind soakaway needed must be designed and constructed to comply with "The Scottish Building Standards: Technical Handbook – Domestic" issued in May 2005.

***Noted. An appropriate advisory note could be added to any consent granted.***

3.5 Scottish Power Energy Networks has no objection to the proposed development.

***Noted.***

3.6 East Ayrshire Outdoor Amenities Section has no objection to the removal of any trees on site with a replanting programme taking place after the development is completed.

***Noted. An appropriate condition could be added to any consent granted.***

3.7 Dalmellington Community Council has not responded to the letter of consultation.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 One third party letter of objection has been received with respect to the proposed development and the main points of objection are summarised as follows:-

4.2 The proposed site is within a designated conservation area (Dunaskin Heritage). Construction would therefore either be prohibited or only obtained by the consent of Scottish Natural Heritage.

***The site is actually within the Waterside (Outstanding) Conservation Area. Being within a conservation area does not mean development is prohibited but may mean that higher standards are expected particularly in relation to design and materials. The design in this instance is considered to be poor given its location. The objector is possibly confusing the natural with the built environment when referring to Scottish Natural Heritage. Historic Scotland is the government body which would ultimately approve certain types of development within a conservation area but in this instance the determining body is the Council as Planning Authority.***

4.3 The site is on a single track road and my access would inevitably be blocked for significant periods of time due to site traffic, construction works and attendant deliveries. Access to the site is already severely restricted due to the narrowness of the road and by the burn to the west due to a dropping embankment. In order to gain suitable access site traffic may need to transgress onto my boundary which is unacceptable. My access would be restricted/ periodically denied for a considerable length of time. The site would require substantial preparation and stabilisation before construction of any property began. The increased domestic traffic (post construction) would place too high a demand on an already overused stretch of unmaintained, single track road.

***The above concerns reinforce the reasons, as set out in section 3.1, for EAC Roads objection to the proposed development. The road is narrow and poorly maintained in places. Additional traffic, during and post construction, will not improve this situation and nothing in the applicant's supporting statement contradicts this view. On the question of transgression, should the development be approved the objector***

**would be legally entitled to deny access over his/her land to construction or other vehicles requiring access to the development site.**

4.4 Sewerage requirements for the development would dictate the installation of a septic tank .There are already septic tanks belonging to 3 existing properties and the overflow from these is routed to a nearby burn which carries only a trickle of water excepting periods of excessively heavy rain. A fourth would exacerbate problems being experienced.

**Neither SEPA nor Scottish Water has raised any objection in principle to this proposed development. SEPA has pointed out however that in view of the absence of a watercourse suitable for the acceptance of septic tank effluent a sub-soil soakaway system should be used for effluent disposal. Also a SUDS system is required for draining surface water. Should the development be approved then appropriately worded conditions/ advisory notes could be imposed.**

4.5 There is potential for this development to bring further disruption to domestic water supplies which are already problematic in the vicinity. Supplies are regularly disconnected. Supply of water may become unsustainable should this development be approved and increase the burden on an already overloaded system.

**As SEPA and Scottish Water have raised no objection nor highlighted any problem it would be sufficient, should the application be approved, to impose an advisory note to ensure the developer liaises at an early stage with these bodies.**

4.6 Two mature trees would be felled to allow access to the site. In addition other mature woodland to the rear may be affected.

**The site has been inspected by the Council's Arboriculture Officer. The report confirms that there are no trees on site with any significant amenity value and what is there could be removed without causing any loss of character to the area. A number of young trees could be protected with a replanting programme taking place after any development approved was completed. A suitable landscape condition could be attached to any consent granted for 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 (1999) and the Adopted East Ayrshire Local Plan (2003).

### Approved Ayrshire Joint Structure Plan

5.2 Policy E20 states that development proposals considered to have an adverse effect on the following heritage resources shall not conform to the structure plan:

A listed buildings of architectural and historic interest;

***Not applicable.***

B designated conservation areas;

***The proposal is within the Waterside Outstanding Conservation Area. The proposed development of a dwellinghouse within the Conservation Area is acceptable in principle. However, it is considered that the design of the house does not reflect the character and architecture of the Conservation Area and would have an adverse impact on the character and appearance of the Conservation Area itself.***

C historic gardens and designed landscapes; and

***Not applicable.***

D archaeological locations.

***It is considered that the design of the proposal would also have an adverse effect on the setting of the Waterside, miners' villages & mineral railways Scheduled Ancient Monument.***

#### East Ayrshire Local Plan

5.3 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

(i) impact on the surrounding natural and built environment and adjacent uses;

***It is considered, in principle, that the proposal will not have an adverse impact on natural and built environment resources and adjacent uses. However, it is considered that the design of the new building does not sufficiently take account of the character of adjoining buildings within the Waterside ( Outstanding ) Conservation Area in terms of massing, scale, fenestration and solid/void proportions and would have an adverse effect on the built environment and the outstanding Conservation Area within which it would be located.***

(ii) transportation and infrastructure implications;

***EAC Roads and Transportation Division and other service providers have been consulted in this regard. As previously indicated EAC Roads has recommended refusal due to the inability of the existing private access road to absorb any further vehicular traffic without being upgraded. Other service providers have not identified any insuperable problems.***

- (iii) compatibility with surrounding densities and housing types; and

***It is considered that the development is compatible with surrounding densities and that a single storey dwelling, all be it of much improved design, would be compatible with other house types in the area.***

- (iv) compliance with the Council's Development Promotion and Design Guidance.

***It is considered that the design of the dwellinghouse does not accord with the Council's design guidance, in terms of its location within an Outstanding Conservation Area and as is indicated in section 5.4(i) above.***

5.4 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.

***It is considered that the proposal observes the minimum standards for the provision of private open space.***

5.5 Policy ENV1 states that the Council will seek to protect, preserve and enhance all heritage resources requiring conservation including Listed Buildings and Conservation Areas, together with their respective settings, Scheduled Ancient Monuments and Archaeological and Industrial Archaeological sites and landscapes.

***It is considered that the design of the dwellinghouse does not preserve or enhance the setting of the Outstanding Conservation Area within which it is located and the Scheduled Ancient Monument which lies directly adjacent to the site.***

5.6 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. The policy also states that development proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

***It is considered that the design of the dwellinghouse will have a detrimental affect on the Outstanding Conservation Area in terms of design, materials and colour of finish. It is considered that the proposal does not preserve, enhance or incorporate features, which contribute positively to the character and appearance of the area and does not have due regard to the architectural and historic qualities of the area.***

5.7 Policy ENV7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. The policy also states that developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

***It is considered that the design of the dwellinghouse does not accord with the Council's design guidance as indicated in 5.4(i) above.***

5.8 In summary the proposed development is contrary to the development plan in terms of roads policy and design of the new building. The applicant is unable/unwilling to upgrade the private access road which would remove the roads issue but agrees that the design of the new house could be changed to be more appropriate with the surrounding area.

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

6.1 The principal material considerations relevant to the determination of the application are the planning history, the consultation responses, the representations received and the new Finalised Ayrshire Joint Structure Plan 2006 .

### Planning History

6.2 Outline planning permission was granted subject to conditions on 2 November 1989 (Application Number CD /89/301) for the erection of a dwelling house on this site. The consent has long since lapsed and the application was approved before the current Development Plan policies became effective. The proposed development does not comply with current policy and the planning history previously mentioned does not outweigh this consideration.

### Consultations Responses

6.3 EAC Roads and Transportation Division has recommended refusal because of the inability of the private access road to absorb any further vehicular traffic without being upgraded as is required by the 1996 Road Development Guide, amended June 2005. The applicant acknowledges that the proposed development does not comply with this policy but has not been able to bring forward any facts/arguments which would outweigh this consideration. None of the other consultation responses have raised any issues which would indicate that the application should be refused.

### Representations

6.4 It is considered that the representations are valid in relation to road related issues and reinforce the objection received from EAC Roads and Transportation. In other respects the representations made are either not valid, can be addressed through the imposition of conditions or are not of sufficient weight to merit refusal of the application.

### Finalised Ayrshire Joint Structure Plan (2006)

6.5 Policy ENV 6: Protection of the Built Heritage states:

Development proposals considered to have an adverse effect on the following heritage resources shall not conform to the structure plan.

A listed buildings of architectural and historic interest;

***Not applicable.***

B designated conservation areas;

***The proposal is within the Waterside Outstanding Conservation Area. The proposed development of a dwellinghouse within the Conservation Area is acceptable in principle. However, it is considered that the design of the house does not reflect the character and architecture of the Conservation Area and could have an adverse impact on the character and appearance of the Conservation Area itself.***

C Historic gardens and designed landscapes; and

***Not applicable.***

D archaeological locations and landscapes.

***It is considered that the design of the proposal could have an effect on the setting of the Waterside, miners' villages & mineral railways Scheduled Ancient Monument.***

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

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

## **8. CONCLUSIONS**

8.1 As indicated in section 5 of the report, the application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are no material considerations relevant to this application which would justify changing the recommendation from refusal.

8.2 The proposed development is contrary to EALP in terms of roads policy and also in terms of design, materials and colour of finish of the dwellinghouse.

## **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**

15 January 2007  
SMcD/HM/SMcD  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
  2. Statutory Notices and Certificates.
  3. Letter of Representation.
  4. Consultation responses.
  5. Adopted East Ayrshire Local Plan (2003).
  6. Approved Ayrshire Joint Structure Plan (1999).
  7. Finalised Ayrshire Joint Structure Plan (2006).
  8. Outline Planning Permission Ref. No. CD/89/301
- Anyone wishing to inspect the above background papers should contact Stephen McDermott on 01563 555485.

***Implementation Officer: Dave Morris***

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0575/FL

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Location	Plot of ground adjacent to Windyedge Waterside by Patna KA6 7JH
Nature of Proposal:	Proposed erection of a dwellinghouse
Name and Address of Applicant:	Mr and Mrs Gardiner Bank House 27 Main Street Dalmellington Ayr KA6 7QL
Name and Address of Agent	Michael A J Boston 34 Main Street Prestwick Ayr KA9 1NX

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

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

1. The proposed development is contrary to East Ayrshire Local Plan Policy RES4 in that it fails to satisfy the requirements of Section 2.3.8 (Provision of Roads in Rural Areas ) of the 1996 Roads Development Guide as amended June 2005. To secure the interests of road safety and residential amenity the proposed development would trigger a requirement for the whole of the private access road from its junction with the A713 to the development site to be upgraded to an adoptable standard. The proposed development does not allow for the upgrade of the private access road and accordingly is contrary to Policy RES4.
2. The proposed development would be contrary to East Ayrshire Local Plan Policies RES4, ENV1, ENV4 and ENV7 in that the design of the proposed dwellinghouse would have a detrimental impact on the amenity of the Waterside Outstanding Conservation Area within which it is located in terms of design, materials and colour of finish. The proposals would not preserve, enhance or incorporate features which contribute positively to the character and appearance of the Outstanding Conservation Area and does not have due regard to the architectural and historic qualities of the Outstanding Conservation Area and the setting of the adjoining Scheduled Ancient Monument (Waterside: miners' villages and mineral railways).
3. The proposed development would be contrary to the Approved Ayrshire Joint Structure Plan Policy E20 in that the design of the dwellinghouse would have a detrimental impact on the amenity of the Waterside Outstanding Conservation Area within which it is located in terms of design, materials and colour of finish. The proposals would not preserve, enhance or incorporate features which contribute positively to the character and appearance of the Outstanding Conservation Area and does not have due regard to the architectural and historic qualities of the Outstanding Conservation Area and the setting of the adjoining Scheduled Ancient Monument (Waterside: miners' villages and mineral railways).

4. The proposed development would be contrary to the Finalised Ayrshire Joint Structure Plan Policy ENV 6 in that the design of the dwellinghouse would have a detrimental impact on the amenity of the Waterside Outstanding Conservation Area within which it is located in terms of design, materials and colour of finish. The proposals would not preserve, enhance or incorporate features which contribute positively to the character and appearance of the Outstanding Conservation Area and does not have due regard to the architectural and historic qualities of the Outstanding Conservation Area and the setting of the adjoining Scheduled Ancient Monument (Waterside: miners' villages and mineral railways).

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