

**EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE: 15 NOVEMBER 2005**

**04/1280/FL: PROPOSED ALTERATION AND EXTENSION TO HOLLYBUSH HOUSE PROVIDING ADDITIONAL RESPITE CARE FACILITIES**

**04/01281/FL: PROPOSED ENABLING RESIDENTIAL DEVELOPMENT OF FIVE DWELLINGS IN THE WALLED GARDEN**

**AT HOLLYBUSH HOUSE, HOLLYBUSH, NEAR DALRYMPLE**

**APPLICATION BY EX-SERVICES MENTAL WELFARE SOCIETY**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 In terms of application 04/1280/FL, full permission is sought for the erection of a large annexe style extension to Hollybush House to provide a 14 bed residential care unit site to the north of the existing listed building. The proposed accommodation is designed to fit in with the contours of the site at this location and will provide accommodation as a three storey building form, although the principal elevation will present as two storey development.

1.2 The proposed annexe extension is of contemporary design but compliments the character and appearance of the listed building. The accommodation to be provided comprises 14 single bedrooms, each with its own en-suite facilities together with administration and staff facilities.

1.3 The proposed annexe extension is linked to the existing care facility at Hollybush House by means of a glazed corridor to provide a sense of separation and minimise the visual impact of the new connection to the original listed building while still maintaining the essential functionality required for the care facility use.

1.4 Externally, a high quality ashlar style dry cast stone block will be used in the wall finish of the proposed annexe and this will closely match the colour and texture of the stone used in Hollybush House. Natural timber cladding will also be used to achieve the contemporary aesthetic of the new build and to reflect the location within the wooded policies of the estate.

1.5 Other ancillary works to be undertaken include the provision of landscape works and provision of further car parking. A number of trees will require to be felled to accommodate the new annexe but the design and layout of the

proposed works seeks to minimise the impact on the wooded policies of the estate.

1.6 In terms of application 04/1281/FL, full permission is sought for the erection of five detached one 1 ¾ story dwellings within the Walled Garden of Hollybush House. The proposed dwellings are of traditional style and design to reflect the character and appearance of the listed building within the Hollybush House Estate. The dwellings are of the same design consisting of eight apartments and are to be finished externally in white rendered wall with stone detailing with slate or slate look-a-like roof tiles.

1.7 The proposed residential development is laid out in a linear fashion and will be accessed via a new site access road taken from the existing western access road serving the Hollybush Estate. The development is essentially confined within the existing walled garden and with the exception of the section of wall that will require to be removed for the site access road, the wall will remain intact.

1.8 The proposed residential development is being promoted by the applicant as an 'enabling development' in order to promote the implementation and construction of the proposed new annexe building. The applicant proposes that funds raised from the sale of the residential development would be directed towards funding the cost of the new annexe.

## **2. RECOMMENDATIONS**

**2.1 It is recommended that application 04/1280/FL be approved subject to the conditions listed on the attached sheet.**

**2.2 It is recommended that application 04/1281/FL be approved but that the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded an agreement with the applicant, under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant to address the matter described in Section 8.7 of this report.**

## **3. SUMMARY OF ANALYSIS**

### Application 04/1280/FL

3.1 As indicated in section 5 of the report, the application is 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 approved unless material considerations indicate

otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application

3.2 The proposed new 14 bed care facility is considered to be acceptable in terms of its scale, design, layout and use of finishing materials. It is considered that the design compliments the existing Category B Listed Hollybush House and while the proposed development will result in the loss of some trees, it is considered that there will be no significant adverse impact on either the setting of the listed building or on the landscape character of the area.

3.3 The proposed extended care facility promoted under application 04/1280/FL is considered to be essential to the future viability of the residential care facility at Hollybush House. It is considered that this facility currently contributes significantly to the social and economic well-being of the area in which it is located.

#### Application 04/1281/FL

3.4 As indicated in section 5 of the report, this application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application and justify a case for a departure from the development plan in this instance. It is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the developments.

3.5 While the proposed residential development proposed under application 04/1281/FL is contrary to policy, and that in terms of the East Ayrshire Local Plan it is not true 'enabling development' consistent with policy, the future of the existing facility within Hollybush House would be under significant threat without the funds that would be generated by the proposed housing development within the walled garden area.

3.6 In this case the proposed enabling development is limited and all funds generated by the sale of an approved residential development site would be directly channelled to the new extension project. Given the importance of the facility in socio-economic terms and the potential closure of Hollybush House as a residential care facility if it is unable to meet forthcoming standards of care, these material considerations outweigh the provisions of the development plan and justify a departure from policy in this case.

3.7 It is considered that the limited residential enabling development should be approved and should the Committee be minded to approve the applications, the enabling residential development should be subject to a Section 75 Agreement restricting any development within the Walled Garden area until a formal contract has been agreed and let for the construction of the new care facility extension at Hollybush House. A further clause would also be required to ensure that all profits made from the sale of the walled garden are directed towards funding the proposed annexe extension.

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

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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**APPLICATION BY EX-SERVICES MENTAL WELFARE SOCIETY**

**Report by Head of Planning, Development and Building Standards**

### **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to jointly present for determination two full planning applications which are to be considered by the Development Services Committee under the scheme of delegation, as part of the development proposals is contrary to policy, is the subject of representations, and the development is recommended for approval.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The site is located on the south side of the A713 Ayr-Dalmellington Road and to the east of the small hamlet of Hollybush. The site relates to Hollybush House and Estate which comprises the Category B Listed Hollybush House and its wooded policies, which extend to some 13.4 hectares.

2.2 Application 04/1280/FL relates to Hollybush House itself and comprises an area within the wooded policies lying to the north of the Category B Listed Building. The site is sloping in nature and the land falls quite markedly in a south to north direction and a number of mature trees are located within the site together with shrub vegetation.

2.3 Application 04/1281/FL relates to the Walled Garden of Hollybush House and is located adjacent to the A713 Ayr – Dalmellington Road some 300 metres north-east of Hollybush House itself. The site extends to 0.7 hectare and is generally level. The Walled Garden site is accessed from the western estate road leading off the B7034 Hollybush – Dalrymple Road.

**2.4 Proposed Development:** In terms of application 04/1280/FL, full permission is sought for the erection of a large annexe style extension to Hollybush House to provide a 14 bed residential care unit site to the north of the existing listed building. The proposed accommodation is designed to fit in with the contours of the site at this location and will provide accommodation as a three storey building form, although the principal elevation will present as two storey development.

2.5 The proposed annexe extension is of contemporary design but compliments the character and appearance of the listed building. The accommodation to be provided comprises 14 single bedrooms, each with its own en-suite facilities together with administration and staff facilities.

2.6 The proposed annexe extension is linked to the existing care facility at Hollybush House by means of a glazed corridor to provide a sense of separation and minimise the visual impact of the new connection to the original listed building while still maintaining the essential functionality required for the care facility use.

2.7 Externally, a high quality ashlar style dry cast stone block will be used in the wall finish of the proposed annexe and this will closely match the colour and texture of the stone used in Hollybush House. Natural timber cladding will also be used to achieve the contemporary aesthetic of the new build and to reflect the location within the wooded policies of the estate.

2.8 Other ancillary works to be undertaken include the provision of landscape works and provision of further car parking. A number of trees will require to be felled to accommodate the new annexe but the design and layout of the proposed works seeks to minimise the impact on the wooded policies of the estate.

2.9 In terms of application 04/1281/FL, full permission is sought for the erection of five detached one 1 ¾ story dwellings within the Walled Garden of Hollybush House. The proposed dwellings are of traditional style and design to reflect the character and appearance of the listed building within the Hollybush House Estate. The dwellings are of the same design consisting of eight apartments and are to be finished externally in white rendered wall with stone detailing with slate or slate look-a-like roof tiles.

2.10 The proposed residential development is laid out in a linear fashion and will be accessed via a new site access road taken from the existing western access road serving the Hollybush Estate. The development is essentially confined within the existing walled garden and with the exception of the section of wall that will require to be removed for the site access road, the wall will remain intact.

2.11 The proposed residential development is being promoted by the applicant as an 'enabling development' in order to promote the implementation and construction of the proposed new annexe building. The applicant proposes that funds raised from the sale of the residential development would be directed towards funding the cost of the new annexe.

### 3. CONSULTATIONS AND ISSUES RAISED

#### Application 04/1280/FL – Extension to Hollybush House

3.1 East Ayrshire Roads and Transportation Division has no objection to the proposed development. The applicant has had discussions regarding the parking provision with this Division. Consideration should be given to providing passing places on the site access road.

***Noted.***

3.2 Scottish Water has advised that contact should be made with its Developer Services to discuss if the existing water supply needs upgrading in view of the alterations proposed in this application.

***A note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with Scottish Water.***

3.3 The Scottish Environment Protection Agency has indicated it has some concerns regarding the proposed drainage arrangements for the site.

***A condition can be attached to any consent granted for the proposed development to ensure that the developer meets the requirements of SEPA. The applicant is aware of the concerns of SEPA and is in consultation with SEPA to develop an acceptable means of providing appropriate drainage of the site including the use of a Sustainable Urban Drainage System.***

3.4 Power Systems has not responded to the consultation letter.

***Noted.***

3.5 Dalrymple Community Council has been consulted but no response has been received at the time of writing this report.

***Noted.***

3.6 East Ayrshire Outdoor Services Section has no adverse comments to make on the proposed development.

***Noted.***

3.7 Scottish Natural Heritage has indicated that there are some natural heritage interests at this location, but the proposal is considered unlikely to threaten these interests. However, any adverse impacts could be reduced further by conditions. SNH therefore has no objection to this development proposal but recommends the following conditions and highlights the following concerns. It would appear from the plans that a number of trees will be felled for this development. Individual trees identified for felling should be surveyed for hibernacula or maternity roosts prior to felling. Hollybush House is a designed landscape of local/ regional importance and this development may have an effect on the quality of the designed landscape.

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

3.8 The Scottish Wildlife Trust has no objection to the development provided that it can be shown that red squirrels and bats will not be negatively affected.

***It is considered that the condition required to meet the requirements of SNH would address the similar concerns raised by the SWT.***

Application 04/1281/FL: Proposed Enabling Residential Development

3.9 East Ayrshire Roads and Transportation Division has no objections subject to conditions as follows:

(i) The site will require to be served by internal roads that comply with the Roads Development Guide 1996 and will require Construction Consent. This would cover details such as road widths, footways, road construction, street lighting drainage, traffic calming etc. and must be in place prior to commencing road works on site. The layout as submitted would require minor amendments to geometry, off road parking and access locations.

(ii) Junction visibility splay areas of 2.5 metres by 35 metres will be required at all internal road junctions with no object greater than 1 metre in height allowed within these areas. 15 metre forward visibility is required at speed bends.

(iii) No surface water must be allowed to discharge from driveways onto existing or proposed public roads.

(iv) Parking requirement must be to the Roads Development Guide 1996 including visitor parking.

(v) Any garages must be set back a minimum distance of 6 metres from the rear of the footway or service strip.

- (vi) 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 the overcarry of loose material onto the public road.
- (vii) Driveway manoeuvrability should be provided for off-road parking.
- (viii) The existing car park adjacent to the public telephone box will require to be formalised and included within the proposals.
- (ix) The proposed driveways should be not less than 4.8 metres in length by 2.5 metres wide.
- (x) Drainage details and in particular the use of SUDS will require the approval of the Roads and Transportation Division, Scottish Water and SEPA as part of the Construction Consent.

***Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.***

3.10 Power Systems has no objections to the proposed development.

***Noted.***

3.11 East Ayrshire Outdoor Services Section has no adverse comments to make on the proposed development.

***Noted.***

3.12 Scottish Water has no objections to the proposed development.

***Noted.***

3.13 The Scottish Environment Protection Agency states that it has no objections in principle to the proposals provided the drainage arrangements are to its satisfaction. In this regard all foul drainage from the development must be connected to the existing public sewerage system and not to a septic tank and soakaway as proposed. SEPA requests a condition requiring the applicant to install a surface water treatment system in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. All waste materials generated by this development that require to be removed such as construction, demolition wastes 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.

***Appropriate conditions and notes can be attached to any consent granted for the proposed development to meet the requirements of SEPA.***

3.14 Scottish Natural Heritage has no comments to make in respect of this development.

***Noted.***

3.15 West of Scotland Archaeology Service has no comments to make on the proposed development.

***Noted.***

3.16 Dalrymple Community Council has been consulted but no response has been received at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 With respect to application 04/1280/FL for the extension of Hollybush House itself, no third party representations have been received.

4.2 The proposed enabling residential development within the Walled Garden of Hollybush House (application 04/1281/FL) is the subject of two letters of representations from three signatories. The points of objection are summarised as follows:

4.3 We are concerned that the development will create a much increased level of light pollution from roadway lighting to the detriment of our enjoyment of clear skies. Any such lighting should be kept to a minimum and designed to control extraneous light.

***Street lighting will require to be provided as part of the proposed development to meet road safety requirements but a condition can be attached to any consent granted to ensure that the street lighting is designed to limit extraneous light within this rural location.***

4.4 The plans show that each of the five dwellings will have a septic tank with soakaway for the effluent. We are concerned that the area is insufficient to dispose of this amount of effluent without causing pollution.

***SEPA has indicated that the foul drainage of the development site must be taken to the existing public sewerage system and Scottish Water has confirmed the presence of the existing public sewerage system to which the development can be connected. A condition can be attached to any consent granted for the proposed development to***

**ensure that the proposed drainage arrangements meet the requirements of both SEPA and Scottish Water.**

4.5 The detailed plans do not show any provision for surface water disposal. We are concerned that the existing surface water drainage system serving the local properties is already at maximum capacity.

**Both SEPA and Scottish Water have requested the use of SUDS for the treatment and disposal of surface water from the development site and neither has raised any significant concerns in this regard. The applicant is currently in discussions with SEPA regarding the drainage of the site and the proposed method will require to be designed to meet the requirements of SEPA.**

4.6 The perimeter wall of the proposed development is an integral part of the amenity of the area and is subject to Category B Listed Building status. As such we are concerned that it should remain in its current form.

**Except where the wall may be breached for site access purposes, it is agreed that the existing boundary wall should be retained and a condition can be attached to any consent granted for the proposed development to ensure its retention.**

4.7 There used to be substantial Victorian glasshouses and its associated heating system located within the development site. We believe the boiler was lagged with asbestos. The glasshouses and boiler house were demolished and covered over. The large boiler will corrode to the point of collapse and the asbestos, which was not removed prior to being covered, will be exposed. We are concerned that this buried asbestos will be disturbed during building works or subsequently inadvertently by plot owners.

**The applicant has been advised of the comments of the objector. A condition can be attached to any consent granted for the proposed development to require the applicant to carry out ground contamination survey prior to the commencement of development.**

4.8 Toll Cottage, the property immediately opposite the proposed development gains much value from its situation and outlook and its south facing aspect is one of its most attractive features with unobstructed views over the Hollybush House Estate and its picturesque Walled Garden and Stables Cottage. To allow the proposed development to proceed would result in the loss of this picturesque visual aesthetic and diminish the quality and character of the area.

**Objections to the proposed development due to loss of view or outlook are not valid grounds of objection and are not material to the consideration of this application. With regard to the diminution of the**

***quality and character of the area, it is considered that the proposed development is of high quality in terms of its layout, design and use of finishing materials. Rather than diminishing the quality and character of the area, it is considered that the proposed development is complimentary to the character and visual quality of the Hollybush Estate.***

4.9 Toll Cottage is run as a holiday home and the proposed development could, due to loss of its outlook, result in a decline of occupancy and subsequent financial loss. Furthermore the diminished attractiveness of the property will inevitably result in decline in the sale value of the property.

***It is considered that a sensitive development such as that proposed in this current application need not result in any significant adverse impact on the objector's property. The potential loss of property value is not a material consideration in the determination of this application.***

4.10 The proposed development will have a detrimental effect on this countryside locale and constitutes a breach of policy RES17 (viii) of the East Ayrshire Local Plan.

***An assessment of the proposed development against the policies of the East Ayrshire Local Plan is given in Section 5 below. Nonetheless, it is considered that the proposed development would not be unduly visually prominent or adversely affect the amenity and appearance of remote areas, wild areas or particularly picturesque locations, or diminish the natural or designed landscape quality and character of the area.***

## **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 (2003).

### ***(i) Application 04/1280/FL: Extension to Hollybush House***

#### **Ayrshire Joint Structure Plan**

5.2 There are no policies within the Joint Structure Plan that are especially relevant to this application.

## East Ayrshire Local Plan

5.3 Policy IND7 supports extensions to non-industrial buildings for industrial or business purposes subject to justification against specified criteria, the more relevant of which are as follows:

- (a) impact on the surrounding environment and adjacent uses.

***The impact of the proposed development on the surrounding environment is considered below. It is considered that the application site is located within a rural area fairly secluded from neighbouring properties and would therefore have minimal impact on these properties.***

- (b) transportation and infrastructure implications.

***The proposed development will not result in any significant adverse transportation or infrastructure implications.***

- (c) impact on natural and built heritage resources.

***It is considered that the proposed development, subject to appropriate conditions, will not result in any significant adverse impacts on natural or built heritage resources requiring conservation.***

5.4 Policy SD3 states that within the Rural Protection Area, development proposals relating to land outwith settlement boundaries will be acceptable to the Council only in specific circumstances, the more relevant of which in this case is where the development:

- (a) can be fully justified in terms of site specific locational need.

***The proposed development can be justified in this location as an extension to the existing facility.***

- (b) can be fully justified in terms of social and economic benefit to the community.

***The proposed development involves the expansion of facilities to accommodate service men and women suffering from psychological injury attribute to or aggravated by service in the forces. The proposed development can be justified in terms of the social benefits it provides to the community.***

5.5 Policy ENV4 seeks to ensure that all development within or affecting the setting of a listed building is sympathetic to the building concerned.

***It is considered that the proposed new extension is of a design and layout which is complimentary to the category B Listed Hollybush House. The applicant has amended the scheme to meet with the requirements of amenity bodies consulted on the associated Listed Building Consent application.***

5.6 Policy ENV10 states that the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved by stated means. The application site is located within the River Doon Woodland Provisional Listed Wildlife Site.

***Subject to appropriate conditions, neither the Scottish Wildlife Trust nor Scottish Natural Heritage objects to the proposed development.***

5.7 Policy ENV11 states that within Sensitive Landscape Character Areas, the Council will give priority and prime consideration to the protection and enhancement of the landscape in consideration of rural development proposals. The policy further states that the Council will be supportive of development proposals where they would promote the social and economic well-being of communities.

***The application site is located within the Sensitive Landscape Area but the development can be justified on the basis of social well-being that would be promoted by the development. It is considered that the proposed extension would not create unacceptable visual intrusion or irreparable damage to the landscape.***

5.8 Policy ENV12 states that throughout the rural area, especially in the Sensitive Landscape Character Areas, the Council will ensure that all development proposals respect, in terms of their design, the local landscape characteristics of the particular area within which they are proposed. Developers will be expected to conserve and enhance, and re-instate or replace where appropriate, those features which contribute to the intrinsic landscape value and quality of the area concerned.

***It is noted that the proposed extension and alterations involve the removal of a number of trees. It is considered that the loss of these trees should be mitigated as sensitively as possible to avoid any significant impact on the landscape character or amenity of the area.***

***It is considered that the proposal to extend the existing care facilities at Hollybush House would not conflict with the provisions of the development plan.***

**(ii) Application 04/1281/FL: Proposed Enabling Residential Development**

Ayrshire Joint Structure Plan

5.9 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.

***The proposal relates to a residential development in the countryside, outwith the settlement boundary of Hollybush. The proposal is therefore contrary to this particular Structure Plan policy.***

5.10 Policy G1 of the AJSP states that Councils should give priority to the use of land within existing settlements. Any proposed development outwith settlement boundaries shall not conform to the structure plan except:

A where it specifically accords with other policies in the structure plan;

***This proposal does not accord with G1(A) above***

B in locations identified in local plans for that specific purpose; and

***This proposal does not meet the provisions of G1 (B) as the site is not identified for residential purposes in the adopted East Ayrshire Local Plan.***

C where the proposed development meets appropriate development criteria as defined by the structure plan and local plan

***The development cannot be considered to comply with the provisions of G1(C).***

5.11 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 does not accord with any of the above mentioned circumstances and is therefore considered to be contrary to the policy.***

5.12 Policy E1 seeks to maintain and enhance the quality of Ayrshire's landscape and its distinctive local characteristics. Particular care shall be taken to conserve those features that contribute to local distinctiveness including

- A the setting of settlements and buildings within the landscape;
- B the patterns of woodland, fields, hedgerows and tree features;
- C the special qualities of rivers, estuaries and coasts,
- D historic landscapes; and
- E skylines and hill features, including prominent views.

***The most relevant criteria requiring protection in this policy is section B relating to the patterns of woodland, fields, hedgerows and tree features as the eastern part of the site is identified as Ancient Woodland which reinforces the need to protect the trees it contains. It is not considered that the proposal would have any significant adverse impact relative to the stated criteria.***

#### East Ayrshire Local Plan

5.13 The new build element of the application is described by the applicant as an enabling development and, as such, the proposal falls to be assessed against Policy RES8 of the adopted East Ayrshire Local Plan which states that where a proposal relates to an acceptable conversion of a large residential or institutional listed building, an associated but limited enabling development of new build housing may be considered acceptable by the Council, subject to all of the following criteria being met:

- (i) funds raised from the sale of the enabling development are channelled into the conservation of the building to which the development relates;

***This requirement should be included within a formal section 75 agreement between the Applicant and the Council, should the development be considered acceptable in principle.***

- (ii) the new build element does not result in the division and fragmentation of the building and its grounds insofar as management of the area is concerned;

***It is not considered that the proposed new build element of the proposal will result in the division and fragmentation of the building and its grounds to any significant degree.***

- (iii) the developer can demonstrate that financial assistance is not available from any other source;

***The applicant has provided a business plan for the provision of the new residential accommodation unit at Hollybush House. Significant investment of £1.75 million will require to be raised from a variety of sources. With the sale of land associated with the enabling development estimated at £400,000, there is still an anticipated shortfall in funding of around £450,000. The sale of the walled garden development is an essential element of the fundraising for the extension project.***

- (iv) the extent of any new build element is restricted to the absolute minimum to unlock the development potential of the building and to facilitate its restoration;

***The applicant has enclosed a business plan along with the application stating that there is a shortfall in the costs to alter and extend Hollybush House (app no 04/1280/FL). It is apparent that the proposed new houses are proposed to raise money to fund the proposed alterations to the existing operative facility at Hollybush House. While it is accepted that funds raised in this manner would undoubtedly enable the alterations to the House to be effected, the proposed new housing cannot, by definition, be considered an enabling development in terms of policy RES 8 of the Local Plan as no conversion of Hollybush House itself to a sympathetic alternative use is proposed.***

- (v) the new build element meets the provisions of all other relevant housing policies;

***It is considered that the development meets the provision of all other appropriate housing policies, in particular policy RES2.***

- (vi) the proposed enabling development is located and designed so as to have minimum impact on the architectural and historic interest, character and setting of the historic environment, including any designation of the area as an Historic Garden and Designed Landscape; and

***No significant adverse comments have been received from consultees in this regard.***

- (vii) the design of the enabling development reflects and compliments the style and design of the original building located on the site.

***It is considered that the proposed development in terms of its layout, scale, design and use of finishing materials is compatible with and complimentary to the listed Hollybush House.***

5.14 The policy also states that any permitted enabling residential development will be made the subject of an appropriate Section 75 Agreement regarding the phasing of construction and other related design and layout matters, through the submission of a detailed business plan for the overall development.

***A Section 75 Agreement would be requested regarding the above matters, should the Council be of a mind to approve the new build element of the application as an enabling development.***

5.15 It is considered that it is not possible to assess the new build element of the application as an enabling development, as it is not associated with the restoration of a large residential or institutional listed building, against policy RES8 of the local plan. The development should be assessed as a new housing development in the countryside against the provisions of Local Plan Policy RES2 which states that, with the exception of dwellings covered by Policies RES13 and 14 below, 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;

***The applicant has not demonstrated any shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area and it is not considered that any such shortfall presently exists.***

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

***It is not considered that there is any demonstrated shortfall in the supply of effective housing land within the Housing Market Area.***

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

***It is not considered that the proposal meets the terms of the Housing Development Strategy of the Local Plan in that the new build element of the proposal is located within the rural area and no specific locational need for the development has been demonstrated by the applicant. The proposal also represents a relatively small scale development which lies outwith a defined settlement boundary, a situation which is also contrary to 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

***There are no significant adverse issues regarding service provision.***

(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 proposals are considered to comply with the Council's policies with regard to design and layout.***

5.16 Policy RES20 states that, in formulating their development proposals, developers should ensure that the provision of open space should meet seven stated criteria;

***No areas of public open space are considered to be required or are proposed in connection with the proposed development.***

5.17 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 policy also allows those standards quoted to be relaxed in respect of the conversion of existing properties to flats where this can be fully justified by the developer and where considered appropriate by the Planning Authority.

***The private open space proposed in the development is considered to meet with the minimum 100 sq. meters advocated in Schedule 4.***

5.18 Policy RES17 states that residential development in the countryside will not be permitted in nine stated circumstances. Two of these circumstances are pertinent to the application, those being:

(iii) where the development would result in the loss of land planted for forestry, areas of ancient or semi-natural woodland, mature shelter belts or in the loss of mature trees;

***The site comprises an area of Ancient Woodland which is considered worthy of protection.***

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

***There is no integration of the proposed development with the existing settlement and the proposal is considered to represent an inappropriate extension of development into the countryside as detailed in the policy.***

5.19 Policy ENV11 states that, within Sensitive Landscape Character Areas, the Council will give priority and prime consideration to the protection and enhancement of the landscape in the consideration of rural development proposals. The policy also states that the Council will not be supportive of any development that would create unacceptable visual intrusion or irreparable damage within these areas. In addition, the policy states that the Council will be supportive of development proposals only where these positively enhance or protect the natural landscape, wildlife and cultural heritage of the area or promote the social and economic well-being of communities.

***Although these houses are proposed in a Sensitive Landscape Area, the site is not unduly visually prominent and it is considered that minimal damage to the area will result from the development.***

5.20 Policy ENV12 states that throughout the rural area, and especially in the Sensitive Landscape Character Areas, the Council will ensure that all development proposals respect, in terms of their design, the local landscape characteristics of the particular area within which they are proposed. Developers will be expected to conserve and enhance, and reinstate or replace where appropriate, those features which contribute to the intrinsic landscape value and quality of the area concerned. The policy also states that development which results in the permanent loss of landscape features which are not readily renewable and whose loss would be unacceptable in landscape terms will not be supported by the Council.

***The scale, layout and design of the houses are compatible with the site's rural location and take into account the Council's Design Guidance.***

5.21 Policy ENV14 states that the Council will ensure that development proposals relating to land within the rural area which has not been identified as specific development opportunity sites on the Local Plan maps has minimum impact on the rural environment. The policy states that there will be a general presumption against rural development in five stated circumstances. One of those is pertinent to the application as follows:

(iii) having a permanent adverse impact or cause unacceptable, irreparable damage to natural heritage resources requiring conservation and to existing species and habitats;

***The proposed development will not result in any significant adverse impacts on natural heritage resources, subject to the imposition of appropriate conditions.***

***The main determining issue within this application relates to the assessment of the proposed new housing as an enabling***

***development as described by the applicant. Policy RES 8 states that where a proposal relates to the conversion of a large residential or institutional listed building located within its own grounds to a sympathetic alternative use an associated but limited enabling development of new build housing may be considered acceptable. As stated above, the associated planning application is for an alteration and extension of Hollybush House and not for the conversion of the property to an alternative acceptable use. Therefore, the application for the new housing cannot be classed as an enabling development in terms of this particular policy.***

***In terms of Policy RES2, the proposal fails to meet the criteria detailed in the Policy. Consequently, it is considered that, as well as not meeting the provisions of policy RES2 the proposal also fails to meet the provisions of Structure Plan policies G1 and G5.***

***In summary, it is not considered that the principle of residential development at this site is acceptable in policy terms, being contrary to the provisions of both the Structure Plan and Local Plan for the area.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received and the applicant's submitted business plan for the extension and alteration of Hollybush House.

### Consultations Responses

6.2 The consultation responses in respect of both applications do not suggest that permission should be withheld.

### Representations

6.3 It is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the developments.

### Supporting Information by the Applicant

6.4 Hollybush House is a 25 bed residential treatment centre providing treatment for service men and women suffering from psychological injury attributed to or aggravated by service in the forces. It is operated by the Ex-Services Mental Welfare Society which since its foundation in 1919 has helped

over 85,000 veterans. In the year ended in March 2004, 866 veterans were admitted for treatment to the facility.

6.5 While offering first-rate treatment, Hollybush House suffers from old-fashioned dormitory style sleeping accommodation and limited occupational therapy and activity facilities. Forthcoming changes to care legislation come into force in Scotland in 2007 compelling the Society to provide single room accommodation and also The Society is concerned by the number of veterans suffering from psychological injury who choose not to attend Hollybush House because of shared sleeping accommodation. To allow the Society to respond to the changing needs of the client group it is considered that this is best achieved through the construction of a new residential block.

6.6 The business plan submitted shows a projected cost of £1.75 million and the Society is exploring ways of funding the project. In this regard the business plan promotes an enabling residential development of five dwellings within the Walled Garden of Hollybush House. It is anticipated that the sale of this development site would raise some £400,000 and channelled directly to offset the costs of the proposed new extension. Notwithstanding this sum and projected funds from other sources, there is still an anticipated shortfall in the region of £451,000.

6.7 The business plan indicates that the implementation of the national Care Standards in Scotland will be rigorously enforced from 2007 and if Hollybush House is not able to meet the required standards, it will not be permitted to operate its current programme of work and would be forced to close. The number of veterans living sufficiently close to Hollybush House to be able to use the facility on a day patient basis is miniscule. Therefore if insufficient funds are generated to meet the costs of the new facility, the Society's remedial treatment facility would be forced to close.

***The proposed extended care facility promoted under application 04/1280/FL is considered to be essential to the future viability of the residential care facility at Hollybush House. It is considered that this facility currently contributes significantly to the social and economic well-being of the area in which it is located.***

***While the proposed residential development proposed under application 04/1281/FL is contrary to policy, and that in terms of the East Ayrshire Local Plan it is not true 'enabling development' consistent with policy, the future of the existing facility within Hollybush House would be under significant threat without the funds that would be generated by the housing development within the walled garden area.***

***In this case the proposed enabling development is limited and all funds generated by the sale of an approved residential development site would be directly channelled to the new extension project. Given the importance of the facility in socio-economic terms and the potential closure of Hollybush House as a residential care facility if it is unable to meet forthcoming standards of care, these material considerations outweigh the provisions of the development plan and justify a departure from policy in this case. It is considered that the limited residential enabling development should be approved and should the Committee be minded to approve the applications, the enabling residential development should be subject to a Section 75 Agreement restricting any development within the Walled Garden area until a formal contract has been agreed and let for the construction of the new care facility extension at Hollybush House.***

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

7.1 There are no financial implications for the Council in the determination of these applications. However, legal implications will arise though the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to ensure that the residential development promoted in application 04/1281/FL is only implemented in the circumstance where a formal contract has been agreed and let for the construction of the new care facility extension promoted in application 04/1280/FL. A further clause would also be required to ensure that all profits made from the sale of the walled garden are directed towards funding the proposed annexe extension.

## **8. CONCLUSIONS**

### Application 04/1280/FL

8.1 As indicated in section 5 of the report, the application is 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 approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application

8.2 The proposed new 14 bed care facility is considered to be acceptable in terms of its scale, design, layout and use of finishing materials. It is considered that the design compliments the existing Category B Listed Hollybush House and while the proposed development will result in the loss of some trees, it is

considered that there will be no significant adverse impact on either the setting of the listed building or on the landscape character of the area.

8.3 The proposed extended care facility promoted under application 04/1280/FL is considered to be essential to the future viability of the residential care facility at Hollybush House. It is considered that this facility currently contributes significantly to the social and economic well-being of the area in which it is located.

#### Application 04/1281/FL

8.4 As indicated in section 5 of the report, this application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that these are supportive of the application and justify a case for a departure from the development plan in this instance. It is considered that the representations received can either be addressed through the imposition of appropriate conditions, or are not valid grounds of objection, or are not of sufficient weight to justify refusal of the developments.

8.5 While the proposed residential development proposed under application 04/1281/FL is contrary to policy, and that in terms of the East Ayrshire Local Plan it is not true 'enabling development' consistent with policy, the future of the existing facility within Hollybush House would be under significant threat without the funds that would be generated by the proposed housing development within the walled garden area.

8.6 In this case the proposed enabling development is limited and all funds generated by the sale of an approved residential development site would be directly channelled to the new extension project. Given the importance of the facility in socio-economic terms and the potential closure of Hollybush House as a residential care facility if it is unable to meet forthcoming standards of care, these material considerations outweigh the provisions of the development plan and justify a departure from policy in this case.

8.7 It is considered that the limited residential enabling development should be approved and should the Committee be minded to approve the applications, the enabling residential development should be subject to a Section 75 Agreement restricting any development within the Walled Garden area until a formal contract has been agreed and let for the construction of the new care facility extension at Hollybush House. A further clause would also be required to ensure that all profits made from the sale of the walled garden are directed towards funding the proposed annexe extension.

## **9. RECOMMENDATIONS**

**9.1 It is recommended that application 04/1280/FL be approved subject to the conditions listed on the attached sheet.**

**9.2 It is recommended that application 04/1281/FL be approved but that the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded an agreement with the applicant, under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant to address the matter described in Section 8.7 of this report.**

**Alan Neish**

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

06 November 2005

HM/HM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letters of Representation (application 04/1281/FL)
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Business Plan by Applicant

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

***Implementation Officer: Alan Neish***

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 04/1280/FL

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Location	Hollybush House HOLLYBUSH
Nature of Proposal:	Proposed alteration and extension to Hollybush House providing additional respite care facilities
Name and Address of Applicant:	Ex-Services Mental Welfare Society Tyrwhitt House Oaklawn Road LEATHERHEAD
Name and Address of Agent	Fleming Muir Architects 20 St Quivox Road PRESTWICK

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

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

1. The proposed development shall be carried out in accordance with the application form and plans received on 24 December 2004 and the amended floor plans and elevational plans (Drawing Nos. 00-24-PL-05A, 00-24-PL-6A, 00-24-PL-7A and 0-24-09PL) received by the Planning Authority on 13 June 2005

REASON – To ensure that development is carried out in accordance with the approved details.

2. Prior to the commencement of development the developer shall undertake a survey of the trees to be Individual trees identified for felling for hibernacula or maternity roosts prior to felling. The results of this survey shall be submitted to the Planning Authority and no works shall commence until the written approval of the Planning Authority has been granted following assessment of the survey.

REASON – In order to minimise potential impact of the development on natural heritage interests within the development site.

3. Prior to the commencement of development on site, the applicant shall submit to, and have approved by the Planning Authority a Management Plan for the landscaping works to be undertaken on site. In particular, this scheme shall incorporate measures for the protection of the existing trees within and adjacent to the development site during construction works.

REASON – To minimise adverse impact on the existing trees within the Hollybush Estate.

4. Prior to the commencement of development on site, the applicant shall submit to and have approved by the Planning Authority, samples of the external finishing materials to be used in the proposed annex extension.

REASON – In the interests of visual amenity.

5. Prior to the commencement of development the developer shall demonstrate in writing that a satisfactory method of drainage and surface water disposal has been approved in writing by the Scottish Environment Protection Agency and this shall be installed and maintained as agreed to the satisfaction of the Planning Authority.

REASON – In the interests of public health and safety.

### **Notes to Applicant**

1. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site, (including capacity issues), and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
2. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

Application No: 04/1281/FL

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Location	The Walled Garden Hollybush House HOLLYBUSH
Nature of Proposal:	Proposed enabling residential development
Name and Address of Applicant:	Ex-Services Mental Welfare Society Tyrwhitt House Oaklawn Road LEATHERHEAD
Name and Address of Agent	Fleming Muir Architects 20 St Quivox Road PRESTWICK

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

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

1. Prior to the commencement of development on site, the developer shall submit to, and have approved by the Planning Authority, samples of the render finish and roof finishing material to be used in the proposed development.

REASON – In the interests of visual amenity.

2. Access to the site must be taken via a road which complies with the Roads Development Guide 1996.

REASON – In the interests of road safety.

3. The site will shall be served by internal roads that comply with the Roads Development Guide 1996.

REASON – In the interests of public road safety and residential amenity.

4. Junction visibility splay areas of 2.5 metres by 35 metres shall be provided at all internal road junctions with no object greater than 1 metre in height allowed within these areas.

REASON – In the interests of public road safety.

5. No surface water must be allowed to discharge from driveways onto existing or proposed public roads.

REASON – In the interests of public road safety

6. Parking requirement shall be to the Roads Development Guide 1996 including visitor parking.

REASON – In the interests of public road safety and residential amenity.

7. Any garages must be set back a minimum distance of 6 metres from the rear of the footway or service strip.

REASON – In the interests of public road safety.

8. The private driveways shall be paved for a minimum distance of 2 metres from the rear of the footway or service strip to avoid the overcarry of loose material onto the public road.

REASON – In the interests of public road safety

9. Driveway manoeuvrability shall be provided for off-road parking.

REASON – In the interests of public road safety

10. The proposed driveways should be not less than 4.8 metres in length by 2.5 metres wide.

REASON – In the interests of public road safety

11. Prior to the commencement of development the developer shall submit a landscaping scheme for the communal areas of the development adjacent to the residential road for the further written approval of the Planning Authority. This scheme shall include details of a programme for the future maintenance and management of the area. The scheme shall be implemented during the next available planting season following completion of the houses hereby approved.

REASON – To ensure an appropriate level of landscaping for the approved development.

12. Prior to the commencement of development the developer shall submit details of the proposed method of Sustainable Urban Drainage System to be installed. This shall have received the further written approval of the Planning Authority prior to its implementation.

REASON – In the interests of public health and safety

13. Prior to the commencement of development on site, the developer shall submit to and have approved by the Planning Authority details of wall and fences to be erected within the development site.

REASON – In the interests of residential amenity

14. The proposed foul drainage of the site shall be to the complete satisfaction of the Scottish Environment Protection Agency and Scottish Water

REASON – In the interests of public health and safety.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ( Scotland) Order 1992, (or any Order or enactment replacing this) no extensions or garages, unless forming part of the approved layout plan, shall be erected on site unless a further specific planning application is submitted to and approved by the Planning Authority.

REASON – To enable the Planning Authority to retain control over future development of the site in the interests of residential and visual amenity.

16. No development shall begin on site (with the exception of site investigative works), until a comprehensive contaminated land investigation has been submitted to, and approved in writing by, the Planning Authority. The investigation shall be conducted in line with BS 10175: 2001 code of practice for “The investigation of potentially contaminated sites” and will contain details of proposals to deal with contamination (if present) to include:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages.
- (iii) Remedial measures to treat/remove contamination to ensure the site is fit for the use proposed.
- (iv) Measures to deal with unsuspected contamination discovered during construction works.

REASON: To ensure potential risks arising from previous site uses have been fully assessed.

17. Should contamination be present in terms of Condition 16 above, prior to any further site development, the developer shall submit a report, confirming that the remedial works have been carried out in accordance with the remediation plan.

REASON: To provide verification that remediation of has been carried out in accordance with the remediation plan and to the Authority’s satisfaction.

18. Notwithstanding the requirements of any Construction Consent required for the proposed development, the proposed street lighting to be provided shall be designed such as to minimise the potential for extraneous light pollution arising from development site.

REASON – In the interests of residential amenity

19. Except where required for access purposes, the existing wall around the development site shall be retained.

REASON – In the interests of visual amenity.

### **Notes to Applicant**

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Division can be contacted on Tel 01563 555330. The internal roads must comply with the Roads Development Guide 1996. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, internal junction visibilities etc. The requisite visibility splay areas will require the relocation of road signs, which shall be at the developer’s expense.
2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.
4. All waste materials generated by this development that require to be removed such as construction, demolition wastes 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.

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