

EAST AYRSHIRE COUNCIL

**DEVELOPMENT SERVICES COMMITTEE SITTING AS A PLANNING
COMMITTEE: 11 OCTOBER 2006**

**06/0635/FL: PROPOSED HOUSE TYPE SUBSTITUTION AT PLOT 56,
BALLOCHMYLE ESTATE, MAUCHLINE**

APPLICATION BY ARDGOWAN HOMES BALLOCHMYLE LIMITED

Report by Head of Planning, Development and Building Standards

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is now sought for a change of house type on Plot 56 from the Diplomat: House Type (8 apartment, two storey house with integral double garage) proposed by the previous applicant for the site to a Type J (10 apartment, two and a half storey house with attached double garage) now proposed by the new developer, Ardgowan Homes. The proposed dwellinghouse is to be constructed as the show house for the Ballochmyle Estate development and lies within the Phase 1 development area.

1.2 The proposed house type is similar in style and design as the previously approved house type, albeit it that the new house type proposed is of two and a half storey construction. However the overall height of the proposed new house type is less than that of the previously approved Diplomat house type.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be held in abeyance until the Solicitor to the Council has concluded an amendment to the existing agreement with the applicant in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 addressing the point noted in Section 8.3 of the report.

3. SUMMARY OF ANALYSIS

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 do not merit refusal of the application.

3.2 This application for the substitution of the house type on plot 56 is considered acceptable in terms of scale, design and use of finishing materials and approval is therefore recommended.

3.3 The principal issue however is the request for the construction of this house in advance of making of Ballochmyle House wind and watertight, as this would represent a breach of the existing Section 75 Agreement for the site. However it is considered that the erection of the proposed show house in advance of the completion of the initial restoration works to be a reasonable request in terms of site marketing and securing sales of the proposed enabling development. An amendment to the existing Section 75 Agreement would be required and the annexation of the submitted schedule of works to this Agreement would allow for appropriate monitoring and enforcement of the development milestones for the refurbishment works.

Alan Neish

Head of Planning, Development and Building Standards

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

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**06/0635/FL: PROPOSED HOUSE TYPE SUBSTITUTION AT PLOT 56,
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APPLICATION BY ARDGOWAN HOMES BALLOCHMYLE LIMITED

Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Development Services Committee under the scheme of delegation as the proposed development would require the amendment of the existing Section 75 Agreement for the Ballochmyle House and Estate development.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to Plot 56 of the Ballochmyle Estate development site that extends to 26.8 hectares in area. The site is located approximately 1.2 km south-east of the settlement of Mauchline and 0.3 km west of the village of Catrine.

2.2 Ballochmyle Golf Course lies immediately southwest of the site with agricultural land to the southeast and the A76 trunk road running south of the golf course. To the east the ground slopes down towards the edge of Catrine and to the north-west is the B705 road between Mauchline and Catrine. Agricultural land lies between the application site to the north and the B705 which wraps around the northern edge of the Ballochmyle Estate. Ballochmyle Sawmill and Sawmill Cottage are situated on the opposite side of the B705 immediately across from the existing main entrance to the site.

2.3 The site is accessed via the existing main site entrance from the B705 and Plot 56 lies immediately west of the proposed new internal roundabout being formed as part of the new residential roads being constructed to serve the proposed development.

2.4 A previous outline planning application for the development of land for residential purposes and refurbishment of mansion house to form flats at Ballochmyle House and estate was approved on 01 February 2005. This outline consent was subject to a Section 75 Agreement to ensure the restoration of Ballochmyle House (Ref. No. 02/0257/OL). A subsequent Reserved Matters application for the erection of 94 dwellings and formation of associated access roads was approved on 16 March 2006 (05/0706/RM)

2.5 **Proposed Development:** Full permission is now sought for a change of house type on Plot 56 from the Diplomat: House Type (8 apartment, two storey house with integral double garage) proposed by the previous applicant for the site to a Type J (10 apartment, two and a half storey house with attached double garage) now proposed by the new developer, Ardgowan Homes. The proposed dwellinghouse is to be constructed as the show house for the Ballochmyle Estate development and lies within the Phase 1 development area.

2.6 The proposed house type is similar in style and design as the previously approved house type, albeit it that the new house type proposed is of two and a half storey construction. However the overall height of the proposed new house type is less than that of the previously approved Diplomat house type.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development.

Noted.

3.2 Mauchline Community Council has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS

4.1 No third party representations have been received with respect to the proposed development.

Noted.

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).

Ayrshire Joint Structure Plan

5.2 There are no policies within the approved structure plan that are especially relevant to the proposed development.

East Ayrshire Local Plan (2003)

5.3 This is an application for a substitution of a house type following the grant of a reserved matters application for the enabling development of Ballochmyle House. The principle of enabling development and the maximum number of new homes proposed has already been established. Policy RES8 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;

The existing Section 75 Agreement for the Ballochmyle Estate site ensures that funds raised from the sale of the enabling development are channelled into the refurbishment of Ballochmyle House.

(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;

The proposed layout of the scheme has already been approved as part of the Reserved Matters application

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

The original applicant demonstrated at the outline stage that financial assistance is not currently available from any other source.

(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;

During determination of the outline planning application, the previous applicant submitted comprehensive financial information indicating that an enabling development of 94 dwellings would be required to secure the refurbishment of Ballochmyle House. The financial information was verified by independent consultants appointed by the Council.

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

It is considered that the new build element does meet the provisions of all other relevant housing policies.

(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

The layout of the scheme has already been approved as part of the Reserved matters application.

(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 design of the enabling development, including the proposed new house type, significantly reflects the style and design of the mansion house.

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 is currently in place to secure the refurbishment of Ballochmyle House. This Agreement was amended to incorporate the details of the Reserved Matter application, particularly in relation to the phasing of the proposed development in relation to refurbishment works on the mansion house. Notwithstanding this, the existing Section 75 Agreement requires the making of Ballochmyle House in a wind and watertight condition, prior to the carrying out of any site clearances or construction works on the new dwellinghouses. The Agreement stipulates that the programme of initial essential restoration works to render Ballochmyle House wind and watertight by October 2007.

However, in seeking consent for this change of house type for the construction of the new show house, the applicant is also seeking an alteration to the existing Section 75 Agreement to allow the construction of the new show house in advance of, but in tandem with, making Ballochmyle House wind and watertight. In this regard, the applicant has submitted a formal schedule of works and timescales indicating that Ballochmyle House would be wind and watertight by the end of February 2007,

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the Finalised Draft Ayrshire Joint Structure Plan (2006), the planning history of the site and the associated Section 75 Agreement.

Consultations Responses

6.2 There are no consultation responses that would suggest that the application should be refused.

Planning History

6.3 An outline planning application (Ref. No. 02/0757/OL) for the development of land for residential purposes and refurbishment of Ballochmyle House to form flats was approved on 01 February 2005. This application is also the subject of an existing Section 75 Agreement for the site.

6.4 A Listed Building Consent Application (Ref. No. 03/0410/LB) for the proposed refurbishment of Ballochmyle House to form flats was approved on 09 November 2004.

6.5 A full planning application (Ref. No. 04/0958/FL) for the proposed road and drainage network including pond and part demolition and refurbishment of Ballochmyle House to form 14 residential units was approved on 16 March 2006.

6.6 A Reserved Matters application (Ref. No. 05/0706/RM) for the erection of 94 dwellings and formation of associated access roads was approved on 16 March 2006.

Section 75 Agreement

6.7 The Ballochmyle Estate residential development is subject to an existing Section 75 Agreement and one of the principal obligations contained within the Agreement is the requirement to make Ballochmyle House wind and watertight,

as defined within the Agreement, prior to the carrying out of any site clearances or construction works on the new dwellinghouses. The applicant seeks a variation to the existing Agreement to allow for the construction of the house which is the subject of this application, as the site show house, in advance of the essential works to make the listed mansion house wind and watertight.

The applicant has indicated that it is essential for site marketing and for the securing of sales within the site as the enabling development for the refurbishment of Ballochmyle House. A schedule of works has been submitted indicating the timescales by which various works will be undertaken to Ballochmyle House will be completed, in tandem with construction of the proposed show house. The schedule sets out a series of development milestones against which progress on site can be assessed. Works are currently ongoing at Ballochmyle House and the schedule indicates that the initial essential works on the listed mansion house will be completed by the end of December 2006.

It is considered that the erection of the proposed show house in advance of the completion of the initial restoration works to be a reasonable request in terms of site marketing and securing sales of the proposed enabling development. An amendment to the existing Section 75 Agreement would be required and the annexation of the submitted schedule of works to this Agreement would allow for appropriate monitoring and enforcement of the development milestones for the refurbishment works.

Finalised Draft Ayrshire Joint Structure Plan 2006

6.8 There are no policies within the approved structure plan that are especially relevant to the proposed development.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council however the proposed development would require an amendment to the existing legal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 relating to the Ballochmyle Estate in the terms as indicated in section 6.7 above.

8. CONCLUSIONS

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 do not merit refusal of the application.

8.2 This application for the substitution of the house type on plot 56 is considered acceptable in terms of scale, design and use of finishing materials and approval is therefore recommended.

8.3 The principal issue however is the request for the construction of this house in advance of making of Ballochmyle House wind and watertight, as this would represent a breach of the existing Section 75 Agreement for the site. However it is considered that the erection of the proposed show house in advance of the completion of the initial restoration works to be a reasonable request in terms of site marketing and securing sales of the proposed enabling development. An amendment to the existing Section 75 Agreement would be required and the annexation of the submitted schedule of works to this Agreement would allow for appropriate monitoring and enforcement of the development milestones for the refurbishment works.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be held in abeyance until the Solicitor to the Council has concluded an amendment to the existing agreement with the applicant in terms of Section 75 of the Town and Country Planning (Scotland) Act 1997 addressing the point noted in Section 8.3 of the report.

Alan Neish
Head of Planning, Development and Building Standards

25 September 2006
HM/HM

LIST OF BACKGROUND PAPERS

1. Application Form, Plans and accompanying supporting information.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Previous applications 02/0757/OL and 03/0410/LB, 04/0958/FL and 05/0706/RM.
7. Finalised Draft Ayrshire Joint Structure Plan (2006)

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

Implementation Officer: Dave Morris

Application No: 06/0635/FL

Location	Plot 56, Ballochmyle Estate MAUCHLINE KA5 6QH
Nature of Proposal:	Proposed house type substitution
Name and Address of Applicant:	Ardgowan Homes Ballochmyle Limited Ballochmyle House MAUCHLINE
Name and Address of Agent	Parr Architects Elliot Street Mews 40 Elliot Street GLASGOW G3 8DZ

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

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

1. The proposed development hereby approved shall be otherwise carried out in accordance with terms and conditions relating to planning application 05/0706/RM dated 16 March 2006.

REASON - To ensure that the proposed development is otherwise carried out in accordance with the existing approved details for the Ballochmyle Estate development.

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