

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 27 MAY 2005

**05/0119/FL: PROPOSED HORIZONTAL AND VERTICAL ALIGNMENT OF
ACCESS ROAD
AT 22 MAIN ROAD, WATERSIDE
BY CASTLE DEVELOPMENTS LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the formation of the access road that would serve a housing development currently underway. The development comprises fourteen houses to the west of an internal roundabout, three revised terraced houses (subject of separate application) located south of the access and five flats within part of the listed building. The fourteen houses, three different terraced houses and the five flats are already approved by earlier consents that included details of a vehicular access road into the housing site from Main Road. (99/0829/FL, 03/1110/FL and 01/0426/LB apply.)

1.2 The applicants have secured road construction consent for the site which has the access road provided with a vertical alignment differing from that granted under planning permission 99/0829/FL. The proposal consequently is for an access road ranging from being some 200mm higher than shown in the existing planning consent, measured in line with 16 Main Road, to 1.7 metres higher adjacent to the west end of the listed building. The Planning Division is advised that this vertical variation arises from a requirement to form a new culvert across the site in the area of the roundabout; which uplifts the level of the access road; and, the Roads Division further advise, from the attainment of a suitable transition between the graded access and the level road surfaces at either end. The proposed levels are up to 2 metres higher than the levels existing prior to the commencement of housing development on site.

1.3 The applicants have submitted drawings showing the proposed and previously approved levels for the road together with the levels previously on the site. The submission confirms that the horizontal alignment for the access road will be as previously approved.

2. RECOMMENDATION

2.1 It is recommended that the application for full planning permission be approved subject to the conditions listed on the attached sheet.

3. CONCLUSIONS

3.1 The application is for the alignment of an access road to serve an approved housing development. As is indicated in section 5 of the report the planning application is in accordance with the Development Plan. The application should therefore be approved unless material considerations indicate otherwise.

3.2 The consultees are generally supportive of the application. Issues of impact on the character of the listed building are not supported by amenity bodies.

3.3 The proposal will, consistent with a roads construction consent, result in the formation of an access with levels being up to 2 metres higher than the original levels on site. However, planning permission has already been issued for an access that, parallel with no 16 Main Road, places the road level only some 200 mm lower than now proposed. Further into the site, the variation from the previous consent is more pronounced, some 1.7 metres. There are no objections from the other consultees in respect of their interests. The submitted letters of objection have been carefully noted but are not in themselves considered to be of sufficient weight to justify an unfavourable recommendation, particularly given the application of appropriate conditions to any consent granted.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee as this would not constitute a significant departure from policy.

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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Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present a full application for planning permission that is required to be considered by the Local Area Planning Committee because it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located within Waterside village and comprises the proposed vehicular access into an approved housing development. The application site lies adjacent to a Category 'B' listed mill located to its north and extends from Main Road down in level to the position of a roundabout some 70 metres to the west, within the wider development.

The site drops in height by four metres from east to west over the length of the proposed road.

2.2 **Proposed Development:** Full planning consent is sought for the formation of the access road that would serve a housing development currently underway. The development comprises fourteen houses to the west of an internal roundabout, three revised terraced houses (subject of separate application) located south of the access and five flats within part of the listed building. The fourteen houses, three different terraced houses and the five flats are already approved by earlier consents that included details of a vehicular access road into the housing site from Main Road. (99/0829/FL, 03/1110/FL and 01/0426/LB apply.)

2.3 The applicants have secured road construction consent for the site which has the access road provided with a vertical alignment differing from that granted under planning permission 99/0829/FL. The proposal consequently is for an

access road ranging from being some 200mm higher than shown in the existing planning consent, measured in line with 16 Main Road, to 1.7 metres higher adjacent to the west end of the listed building. The Planning Division is advised that this vertical variation arises from a requirement to form a new culvert across the site in the area of the roundabout; which uplifts the level of the access road; and, the Roads Division further advise, from the attainment of a suitable transition between the graded access and the level road surfaces at either end. The proposed levels are up to 2 metres higher than the levels existing prior to the commencement of housing development on site.

2.4 The applicants have submitted drawings showing the proposed and previously approved levels for the road together with the levels previously on the site. The submission confirms that the horizontal alignment for the access road will be as previously approved.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections, confirming that the alignment indicated on the submitted drawing is the same as the Roads Division construction consent. A retaining wall shown opposite plots 18 – 20 has been deleted during the construction consent process after the need for it was questioned. The road embankment over the frontage of plots 18 – 20 is part of the public road limits; it supports the carriageway; structures and drainage therein will remain in the control of the Roads Division.

The retaining wall does not lie within the application site and would not form part of any approval if consent were granted for this application. The issued construction consent is consistent with this proposal. Whereas the construction consent requires “build outs” into Main Road to secure appropriate sightlines, it should be noted that these do not require the benefit of planning consent and are not therefore specifically detailed in this submission. The build outs within the construction consent are some 20mm in height (< 1inch) and are provided at each side of the junction with a bollard.

3.2 Scottish Environment Protection Agency say that the source and nature of materials used to build up the land are unknown and consequently they cannot comment on the implications under the waste management legislation, the importation of waste material from other sites is regulated by the waste Management Licensing Regulations 1994 as amended. The applicant must identify the source and type of material used to raise the ground level to establish if it is suitable for purpose. A condition should be applied to any consent requiring the applicant to treat surface water by means of SUDS, the design of which should be capable of treating the volume of run-off anticipated and which shall actually be installed on site.

The applicants have confirmed that all materials used to infill any areas of the site have been generated from within the site boundary and no upfill materials have been imported. The Council's Roads Division have issued a construction consent for the road as proposed which includes SUDS details for the road network.

Engineers on behalf of the applicants confirm that the flood aspects of the access road and the various details within the development have been checked by the Roads Division. A condition can be applied to any consent granted, nevertheless, requiring final confirmation that the SUDS arrangements have been installed in accordance with details approved as part of the road construction consent and prior to use of the road for the purposes of serving the dwellings accessed thereof.

3.3 Moscow and Waterside Community Council have responded to their consultation objecting on the basis that the access road should meet the A719 on the centre line of the development which would leave more room for the propane storage facility and would contribute to lowering the level of the access road which in turn would restore the privacy of the northerly adjoining property to that anticipated in the original proposals.

The Community Council also express concern that significant works have taken place on site without prior planning approval and scant regard paid to boundaries with adjoining properties. They have concern that the position and height of the access road has been changed without consultation and that the requirement to produce a phased development plan showing restoration of the creamery building has not been met. Any applications for further houses should not be considered until the above issues are resolved with a minimum condition being the imposition of a Section 75 agreement to guarantee development of the listed former creamery.

There is concern that the build outs to achieve sightlines are claimed not to be a planning matter although we understood this to be subject of a condition in a case in Fenwick. The apparently independent actions of the Council's Roads, Planning and Building Control Departments enables the developer to manipulate the various officials to further their own agenda.

The application requires to be considered on its current merits, however, the access road as detailed in this application is located, in terms of horizontal alignment, in a position consistent with planning consents granted under 03/1110/FL and 03/0010/FL, and the issued road construction consent.

Significant works had indeed taken place without discharge of conditions on existing planning permissions. As a consequence, the Planning Authority served two enforcement notices and a Stop Notice in order to secure appropriate discharge of conditions and to secure applications in respect of works undertaken other than in accordance with the existing consents. This proposal is one such application, as is a separate proposal relating to the installation of LPG tanks, gas dispersion wall and raising of ground level.

Members will of course be aware that the previous behaviour of the developers relative to the site cannot impact on the determination of current applications.

Adjoining proprietors have raised issues in respect of incursions onto their property or works impacting on their property. These matters have been pursued where the issues are pertinent to the planning process; otherwise they are matters to be resolved legally between the parties concerned.

The applicants have submitted and have had approved, a construction phasing plan confirming, within the context of existing consents, that the listed building was to be restored between weeks 17 and 25 of a 28 week programme starting in December 2004. The necessary enforcement action has seriously impacted on that programme. The Community Council's requested use of a legal agreement to maintain a commitment to that restoration prior to any further new houses being considered is noted but is not applicable to this proposal and should more appropriately be assessed in the context of the separate application for three terraced dwellings.

Appropriate sightlines securing a safe access / junction with Main Road can be secured by means of "build outs" whose design is not considered to require planning permission in their own right. However, the attainment of a safe junction through the road construction consent process is vital prior to the occupation of any of the houses approved on site. Consequently it would be appropriate to attach to any consent granted, a condition (negative suspensive in affect) that required that the occupation of houses should not occur before there had been formed a junction provided with sightlines to the satisfaction of the roads authority.

It is understood that the reference to the formation of build outs in Fenwick is to a scheme delivering full kerb height extensions to the footpath rather than to the 20 mm high proposals for this junction.

3.4 Historic Scotland have no objections and are pleased to note the omission of railings bounding the entrance road.

Railings have been deleted as a feature bounding the junction. The details submitted further to conditions on planning permission 03/1110/FL confirm the use of a stone wall 1.050 metres in height bounding the footpaths at the entrance to the site .

3.5 Scottish Water has no comment to make other than asking that they are informed of any public sewers or water mains affected by the proposal.

Noted

3.6 East Ayrshire Council Outdoor Amenities has no objections subject to any maintenance or Community Service Account held land which may be damaged being reinstated to their satisfaction.

Noted. A note to this affect can be attached to any consent granted.

3.7 Architectural Heritage Society of Scotland understands that this is a retrospective application. They state that they cannot object if it will result in a safe access acceptable to your Roads engineers. They believe the boundary wall adjacent to the public road was listed and that part was removed in order to form the access and that a carved coping stone at the original entrance incised "Waterside Creamery" was damaged and needs to be repaired and reinstated. Great attention is required with regard to how the wall is finished. The retaining wall should be formed of stone and simple vertical railings used where appropriate.

The boundary wall to Main Road was remote from the Listed Building and is not considered to have been covered by that listing. Nevertheless, the applicants have confirmed, through their discharge of conditions relating to boundary features on the site, that there will be formed a 1.050 metre high stone wall curving into the access road and fronting Main Road. This will provide a traditional entrance feature consistent with the character of the adjacent listed building. The applicants have also confirmed that they will either reinstate the incised coping stone or provide a new one to similar design.

3.8 Scottish Civic Trust have no comments.

Noted

3.9 East Ayrshire Council Environmental Health has no comments.

Noted

4. REPRESENTATIONS

Letters of objection have been submitted from 4 individuals who reside locally, in addition to the objections submitted on behalf of the Community Council. The grounds of objection are as follows:-

4.1 The height of the access road is increased and will determine the height of the three proposed terraced houses; they in turn affect our privacy.

This objection more directly concerns the assessment of the separate application for three terraced houses whose impacts will be addressed in that report. However, the terraced houses are proposed where previously was located an industrial building. The proposed road is between 0.6 and 1.4 metre higher than the levels formerly around the factory. The proposed finished floor levels for the three terraced houses vary between 0.6 and 0.9 metres higher than the floor levels for the previous industrial building.

4.2 The raising of land sloping towards their boundary raises a safety question for existing and new residents from water gathering and forming a ditch. The material placed on site has been formed on top of the original surface without drainage. Flooding will follow the new contours.

The gathering of water as described to the south of the access is a matter for consideration under the application for the infilling of land and placing of LPG tanks. It is noted that there has been granted construction consent in respect of the access road.

4.3 The road proposed does not show any build outs; how can they be approved when not attached to the road? The build outs also form a safety issue for traffic and pedestrians.

The build outs are not considered to amount to development requiring planning consent. It is though accepted that they will be required to secure appropriate visibility splays in accordance with Roads Division advice. Consequently, it would be appropriate to place a negative suspensive condition on any consent issued confirming that the access shall not be used to serve dwellings within the site until such time as there have been achieved visibility splays at the junction with Main Road to the requirements of the Roads Division.

4.4 The reconfiguration of the site entrance has removed the existing route for flood waters and they are directed now towards the listed building and house adjacent.

The previous gradients on site directed excess surface waters flowing from Main Road in extreme weather conditions into the wider site and away from 16 Main Road. The current construction consent proposals require the formation of a continuous kerb from outside no. 16 and round into the new access road, ie over the frontage of the site. The kerb will have a 100mm upstand and with the crossfall on the footpath there would be 150mm of “barrier” to waters crossing beyond the footpath in extreme conditions. In extreme events it would remain an offence for landowners elsewhere in the vicinity to allow runoff onto the main road. This can be pursued under the Roads Scotland Act to prevent such runoff and limit impacts on the A719.

A 1:200 year rainfall event could result in ponding on the A719 as could blocked culverts, in the vicinity of 16 Main Road. The geometry of the junction layout would, however, accept extreme rainfall events into the new site where as a consequence the internal road layout has been provided with a flood route to the watercourse. Details submitted further to the original consent (03/1110/FL) indicate the provision of a 1.050 metre high wall extending from the adjacent property and round into the site beside the new footpath. With this in place, there would be further protection for adjacent properties. Any breach in this wall could compromise that protection unless appropriate design features are introduced.

- 4.5 Preventative measures are needed to protect property. An environmental impact report should be sought to assess flood path and flood plain.

The extent of flood protection available from flooding arising across Main Road is discussed above. The status of the site as a whole was the subject of a flood risk assessment submitted by the applicants in response to previous conditions (03/1110/FL) and agreed by SEPA. Works to the Craufurdland Water have precluded any 1:200 year flood risk in respect of the wider site.

- 4.6 There should be formed a retaining wall to the A719 and the new access; to allow planting of shrubs etc.

The current proposals are as submitted and allow for gradual gradients formed over infilled material. The Roads Division have issued a construction consent. The graded support of the road is considered to be acceptable; although in recognition of the potential for such public areas to be misused, appropriate planting would

serve to preclude wider access. The details of such planting remain to be agreed under the terms of conditions attached to planning consent 99/0829/FL. However, given the applicant's ownership of the majority of the land lying between the road and no. 16 Main Road, it would also be possible to attach a condition to any consent granted requiring landscaping details in this area to be agreed.

4.7 Given a retaining wall, the remaining land between the new access and 16 Main Road should have no increase in height. Aside from the access road and its immediate retaining requirements, all other public areas should have no increase in height over what existed.

See response to 4.6 above.

4.8 The finished height of the access road should be such that individuals on the road/footpath cannot see above the window ledges on 16 Main Road (first floor) and into those rooms. Five habitable rooms will have their amenity impacted contrary to the Local Plan.

The distance from the footpath to 16 Main Road varies between 15 and 20 metres; the former at a slight angle. Visibility across this area is currently unrestricted, but through the use of appropriate planting, improved privacy can be attained. The separation of the access road from new units elsewhere in the site will be substantially less than this, however, given the existing accommodations at 16 main Road, this separation is considered acceptable. For information, the existing consent 99/0829/FL for refurbishment of the listed building and erection of 17 new houses has an approved vertical alignment for the access road, adjacent to 16 Main Road, only some 200mm (8 inches) lower than that now proposed.

4.9 Maintain / replace existing services to 16 Main Road.

It would be for the developer to accommodate / maintain all existing service connections to this property. Failure to do so would potentially expose them to separate legal consequences.

4.10 Landscaping / planting to be implemented to satisfaction of 16 Main Road.

As indicated in response to 4.6 above, landscaping details between the access road and that property remain to be confirmed. Given the applicant's ownership of the majority of the land lying between the access road and no. 16 Main Road, it would also be possible to

attach a condition to any consent granted requiring landscaping details in this area to be agreed by the Planning Authority.

4.11 Two parking spaces to be visible from 16 Main Road and with pedestrian access from that property.

This comment would imply provision of off street parking is being sought. Such parking off Main Road would be difficult to attain to current roads standards and may reduce the effectiveness of the boundary features to the west of Main Road in terms of resisting flood water incursion. Parking will be available on-street unaffected by any white lining to Main Road which will be broken.

4.12 Proposals for development of the Mill to take cognisance of the amenity and privacy of 16 Main Road, including redirection of steps to front of the mill nearside 16 Main Road.

The proposals for the development of the Mill are not currently under consideration.

4.12 Two storey town houses opposite to be at the existing ground height.

The town houses are not the subject of this application.

4.13 The gas tanks and infrastructure will be 1 metre higher than the proposed road, at the level of the upper storey of 16 Main Road, will be visually overbearing and out of context with the Listed Building.

The LPG tanks and associated ground infill are not subject of this application.

4.14 Services are being dumped out of sight of the new houses but in the setting of the Listed Building the view of which will be tarnished. The development adversely affects the architectural integrity of out listed building and the Waterside Bridge.

The LPG tanks and associated ground infill are not subject of this application.

4.15 Failure to report planning history of the site properly; drawings submitted only after details being viewed by applicant, "fake visibility splays" provided to secure consent and allow sale of the site. Representations "ignored" in the consideration of subsequent applications.

Reference is being made here to allegations concerning previous applications. These are the subject of a separate complaint relating

to procedural aspects of the determination of such applications which is being undertaken by the Solicitor to the Council. The current application should be considered on its merits in accordance with the development plan unless material considerations indicate otherwise.

4.16 Current proposal has substandard visibility splays and the proposals will turn Main Road into a race track and increase already unacceptable vehicle speeds.

The application is the subject of a positive response from the Roads Division detailed in Section 3 above. A construction consent has been issued.

4.17 Three existing dwellings will no longer be able to park or have access adjacent to the dwellings. This will impact on access for disabled parents, children and for unloading.

Parking will be available on-street unaffected by any white lining to Main Road which will be broken.

4.18 Intensive road markings will impact on the character of the village and the listed buildings.

The white lining is not considered to have such an affect and does not require planning consent. In any case this proposal is concerned with a variation to the alignment of the access road and does not seek to specifically regulate the proposed means of securing visibility splays.

4.19 Breaches of safety standards have been accepted to degrade the minimum visibility splays.

The Roads Division have accepted that appropriate sightlines can be achieved. This proposal is concerned with a variation to the alignment of the access road and does not seek to specifically regulate the proposed means of securing visibility splays. It would be appropriate to ensure, however, that these sightlines should be in place prior to the use of the access road to serve the dwellings in the wider site. This can be achieved by a negative, suspensive condition.

4.20 In the event the application is approved, minimum visibility splays should be 2.5m x 90m in accordance with Dept of Transport and Scottish Executive standards, with no loss of amenity to existing residents.

See response to 4.19 above. The Roads Division have issued a construction consent on the basis of a junction having sightlines of 2.5 x 81 metres.

4.21 Oil and gas deliveries will be impeded as fuel lines cannot be required to cross the road.

Service vehicles would be able to park on Main Road unimpeded by the broken white lines.

4.22 The development schemes are detrimental to the setting and character of the environment when viewed from elsewhere because they raise levels above the original ground level. This is contrary to the local plan.

The consultations received indicate no comments from the Civic Trust and no objections from Historic Scotland or the Architectural Heritage Society of Scotland. The consultation details included site sections illustrating the relationship between the proposed road and the listed building. It is considered that the works to the alignment of the access road do not impact detrimentally on the character or setting of the listed building.

4.23 The infilling creates public play / recreation areas to the detriment of the privacy and amenity of adjacent property.

The formation of the road is shown as being achieved through the use of substantial infilling of the area to the west of Main Road. This solution does create the potential for graded open space that might be subject to wider public use and could as a result impact on the privacy of 16 Main Road. Consequently, and as referred to above, it would also be possible to attach a condition to any consent granted requiring landscaping details in the area between the access and no. 16 Main Road to be agreed by the Planning Authority.

4.24 The application should be determined in the context of the Local Plan. The application should be advertised as not in accordance with the development plan.

The application has been advertised as affecting the setting of a listed building. The principle of residential development has previously been agreed on site and is consistent with the local plan. There is consequently no requirement to further advertise the application as not being in accordance with the development plan.

4.25 A number of submitted drawings indicate works / proposals with the view

of extracting benefit without proper application; (references to “for future development”).

Whilst there are such annotations on one of the submitted drawings, these do not form part of the application and can, by condition, be excluded from any consent granted.

4.26 An independent survey should investigate flood risks arising from new levels.

As indicated above, the site has been subject of a flood risk assessment agreed by SEPA. In a more specific sense, the issue of inundation at the immediate entrance to the site has been discussed at 4.4 above.

4.27 The plans are piecemeal without a single masterplan, making a fair and reasonable assessment impossible. The application should be refused as incoherent and incomplete. The whole top of the site should be assessed in its entirety to appreciate contours and topography.

The application seeks to address a single aspect of the development on site which has been undertaken inconsistent with the details approved as part of planning consent 99/0829/FL, which was in itself a comprehensive submission in respect of the wider site. It is not considered that other aspects of that permission require to be revisited within a masterplan. The other applications before the Council for the three terraced houses and for the LPG tanks and infilling of ground can be adequately assessed on their own merits, there being sufficient information available in that regard.

4.28 There are so numerous material considerations pointing to the non-sustainability of the proposal that they need not be included.

Comment noted

4.29 The development is contrary to Local Plan policies :

RES4 (I), (ii), (iii) and (iv); RES5 (iii); RES8 (vi); ENV1; ENV4; ENV7; ENV8; ENV11; ENV12 (i) & (vi); ENV13 (i), (ii) & (iii); ENV14 (ii) & (iv); ENV17; ENV20 (I), (ii) & (iii)

For an assessment of the application against the Local Plan, please consider section 5 below.

4.30 A solid wall forming a boundary with adjacent property has disappeared

due to the amount of infilling. The applicants have used our property to the benefit of their development. This is unacceptable.

A boundary wall is no longer visible on the south boundary with the adjoining property. However assessment of this is a matter for consideration in relation to the LPG tank and ground level raising application in that vicinity.

4.31 It is misleading to state that the ground levels have been increased due to a new culvert. The culvert is below original ground level.

As mentioned in 2.3 above, the Roads Division have confirmed that the vertical variation in the height of the access arises both from a requirement to form a new culvert across the site in the area of the roundabout; which uplifts the level of the access road; and also from the need to achieve a suitable transition between the graded access and the level road surfaces at either end. The reason for the application, however, need not weigh upon the determination which should assess the merits of the proposal as submitted.

4.32 All current planning consents should be revoked and the Scottish Executive should call in this development application.

It is not considered that there is any basis for this contention.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (EALP).

5.2 Given the terms of this application, it is considered that it would be appropriate to determine the application against the Local Plan, the Structure Plan being focussed on matters of a more strategic nature.

Adopted East Ayrshire Local Plan

5.3 Having regard to the scope of the application, it is considered that there are no significant policy implications arising from the application. The application has not been advertised as development contrary to the development plan for that reason. However, it is appropriate to address the following Policy issues in

that they have been specifically raised within objections received identifying the policies underlined below.

Policy SD1

5.4 SD1 confirms that the Council will adhere to the principles of sustainability in its consideration of all development proposals.

This application concerns the realignment of the levels of a development access road. It is not considered that the principles of sustainability would impact adversely to any significant extent in the consideration of the proposal.

Policy RES 4 (i), (ii), (iii), (iv)

5.5 RES 4 encourages sympathetic gap and infill development on sites where four criteria are met.

This policy is not relevant in the determination of this application, the application not being for Residential Development.

Policy RES 5 (iii)

5.6 RES 5 encourages the subdivision of house curtilages subject to three criteria and addresses the issue of backland development.

Policy RES 5 relates only to developments where an existing house curtilage is to be sub-divided. This policy is therefore not applicable to this development.

Policy RES 8 (vi)

5.7 RES8 concerns the extent to which enabling development might be permissible when associated with the renovation of large residential or institutional listed buildings.

Policy RES 8 relates only to enabling developments i.e. where new build housing is required to unlock the development potential of a large listed building. This policy is therefore not applicable to this development.

Policy ENV 1

5.8 ENV 1 states that the Council will seek to protect, preserve and enhance all heritage resources including listed buildings.

It is considered that the realignment of the road would have a very limited impact on the setting of the listed building. Relevant amenity bodies such as Historic Scotland and the Civic Trust have been contacted and have not objected.

Policy ENV 4

5.9 ENV 4 seeks to ensure that all development affecting the appearance or setting of a listed building is sympathetic to the building concerned in terms of layout, size, design, siting, scale, materials and colour.

It is considered that the realignment of the road would have a very limited impact on the setting of the listed building. Relevant amenity bodies such as Historic Scotland and the Civic Trust have been contacted and have not objected

Policy ENV 7

5.10 ENV 7 requires all developers to comply with the Council's existing and emerging design guidance and policy documents advising on the particular type of development proposed.

It is noted that the design of roads is not covered in the guidance.

Policy ENV 8

5.11 ENV 8 encourages developers in formulating their proposals to ensure that a range of criteria are addressed, summarised as follows: accessible environment, traffic safety introduced, community safety and natural surveillance measures introduced, sustainability in design through recyclables and energy efficiency, designs are innovative and sensitive to the character of the area, developments are landscaped to reflect and compliment the surroundings, integration of open space with existing areas.

It is considered that the proposal does not contravene any of the criteria listed in policy ENV 8. The road has a construction consent as proposed and will not impact adversely on the character of the adjacent listed building.

Policy ENV 11

5.12 ENV 11 requires priority to be given, in Sensitive Landscape Character Areas, to the protection and enhancement of the landscape.

The application site is not located within a Sensitive Landscape Character Area therefore this policy is not applicable to the proposed development.

Policy ENV 12 (i) (vi)

5.13 ENV 12 requires development to respect the local landscape characteristics of the rural area and especially when in the Sensitive Landscape Character Areas. Features adding to landscape character are listed.

The application site is not located within a Sensitive Landscape Character Area nor indeed in a rural landscape, being within a settlement boundary, therefore this policy is not applicable to the proposed development.

Policy ENV 13 (i) (ii) (iii)

5.14 ENV 13 regulates development in rural areas and in Sensitive Landscape Character Areas to ensure that development is in keeping with the rural area, is sensitively sited and is achieved using appropriate planning mechanisms.

Policy ENV 13 relates to rural areas, and not land within settlement boundaries such as this proposal. This policy is not applicable to the proposed development.

Policy ENV 14 (ii) (iv)

5.15 ENV 14 seeks to ensure that development in rural areas shall have the minimum effect on those areas and lists a presumption against proposals having given adverse effects.

Policy ENV 14 relates to rural areas, and not land within settlement boundaries such as this proposal. This policy is not applicable to the proposed development.

Policy ENV 17

5.16 ENV 17 requires any developer intending to develop land where there is known to have been flooding in the past to fully investigate the flood risk on their proposals and on adjoining land; and take appropriate measures.

The applicants have submitted a flood risk assessment which addresses risk on the site and which has been agreed by SEPA. The potential for localised flooding adjacent to the entrance of the site is addressed by the elevated design of the footpath continuing round into the site and the applicants intention, through the discharge of conditions on the earlier but associated consent, to form a stone wall along the site frontage.

Policy ENV 20 (i) (ii) (iii)

5.17 ENV 20 seeks to ensure that any new development has minimum adverse effects on the physical environment and the amenity of the area by reason of air, light and noise pollution, through the use of conditions or legal agreement as required.

The Environmental Health Division have no comments to make in respect of the application. It is not considered that the proposed access road realignment will trigger the effects addressed by this policy.

5.18 In conclusion, it is considered that the application is consistent with the development plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultations, representations, the impact of the proposal on the amenity of the area and immediate neighbours, Planning History and Scottish Planning Policy 7, "Planning and Flooding".

Consultations

6.2 The consultation responses received are supportive of the application, although certain matters will require addressing by condition. In particular, landscaping between the road and the adjacent property to the north should be agreed and the junction of the access road with Main Road should be provided with sightlines to the satisfaction of the Roads Division prior to its use by residents of the new houses beyond.

Representations

6.3 The objections are assessed in detail in Section 4 above. Careful consideration has been given to their content and to their relevance in respect of the development plan. Whilst development should not have commenced without

discharge of conditions on earlier relevant consents nor in a manner inconsistent with the issued consents, it is not considered that the objections merit refusal of the application.

Impact on the Amenity of the Area

6.4 The circumstances of the site are such that it is considered that the proposal can be accommodated without significant detriment to the area in respect of adjacent uses and built heritage.

Planning History

6.5 There is a complex history to the development of the site. The key applications are as follows:-

99/0829/FL Refurbishment of Listed Building to form 5 new flats and erection of 17 new houses. Granted 30/08/02.

01/0426/LB Refurbishment of Listed Building to form 5 flats. Granted 07/10/02

03/0010/FL Redesign access road. Granted 11/02/03.

03/1110/FL Erection of 12 two storey detached houses with access road and accommodated parking. Granted 29/11/04.

The following three applications are not determined and indeed may be revised / withdrawn in the light of decisions on the three most recent applications currently before Committee.

03/1094/LB Listed Building application for conversion to 3 townhouses. Not Determined.

03/1096/FL Full application for conversion to 3 townhouses and 3 two storey terraced houses. Not determined.

04/0901/FL Full application for erection of LPG tanks.

Three most recent applications:-

05/0119/FL Vertical and Horizontal Alignment of access road.

05/0147/FL Installation of LPG tanks, Gas Dispersion Wall and Raising of Ground Level

05/0160/FL Erection of three two storey terraced houses.

6.6 The Planning Authority have also had cause to serve two enforcement notices relating to the commencement of development prior to the discharge of all conditions, (03/1110/FL), and the undertaking of development at variance with issued consents and without the benefit of planning permission. Both notices have been appealed to the Scottish Ministers and will be considered at Public Local Inquiry. The former notice was accompanied by a Stop Notice, which has now been withdrawn by the Council following compliance with terms of that enforcement notice. The latter notice triggered applications 05/0119/FL and 05/0147/FL.

Scottish Planning Policy 7 “Planning and Flooding”

6.7 SPP7 indicates that flood risk is a material planning consideration. The Council’s Roads Division have taken account of its provisions when dealing with their response to consultation. The development is consistent with SPP7.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 The application is for the alignment of an access road to serve an approved housing development. As is indicated in section 5 of the report the planning application is in accordance with the Development Plan. The application should therefore be approved unless material considerations indicate otherwise.

8.2 The consultees are generally supportive of the application. Issues of impact on the character of the listed building are not supported by amenity bodies.

8.3 The proposal will, consistent with a roads construction consent, result in the formation of an access with levels being up to 2 metres higher than the original levels on site. However, planning permission has already been issued for an access that, parallel with no 16 Main Road, places the road level only some 200 mm lower than now proposed. Further into the site, the variation from the previous consent is more pronounced, some 1.7 metres. There are no objections from the other consultees in respect of their interests. The submitted letters of objection have been carefully noted but are not in themselves considered to be of sufficient weight to justify an unfavourable recommendation, particularly given the application of appropriate conditions to any consent granted.

9. RECOMMENDATION

9.1 It is recommended that the application for full planning permission be approved subject to the conditions listed on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee as this would not constitute a significant departure from policy.

Alan Neish
Head of Planning, Development and Building Standards

20 May 2005 (DVM/SA)
FV-AN

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letters of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Planning Application History as noted.

Anyone wishing to inspect the above papers please contact David Morris on 01563 576753.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0119/FL

Site of Proposal:	22 Main Road WATERSIDE
Nature of Proposal:	Proposed Vertical and Horizontal Alignment of Access Road
Name & Address of Applicant:	Castle Developments Ltd 119 Cambuslang Road Cambuslang GLASGOW G72 7TS
Name & Address of Agent:	Thomson Dawes Architects 21 Portland Road KILMARNOCK KA1 2BT

DPOs Reference: DVM/SA

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

1. A landscaping scheme for the area of amenity open space located between no. 16 Main Road and the access road to the south, including the treatment and means of maintenance, shall be submitted to and approved by the Planning Authority prior to commencement of any development. The landscaping details shall thereafter be implemented as approved within the next appropriate planting season following completion of this development.

REASON To ensure that adequate treatment of the area of amenity open space is secured, to an adequate standard, and that it is subsequently maintained, in the interests of residential and visual amenity.

2. Construction works to the road shall not be undertaken outwith the hours of 08:00 hours to 18:00 hours Monday to Friday, and 09:00 hours to 16:00 hours on Saturday and not at any time on Sunday.

REASON In order to protect the amenity of neighbouring properties.

3. Public roads adjacent to the site shall be kept clear of mud or other deposited materials at all times by means of mechanical brushing as appropriate.

REASON In the interests of road safety.

4. There shall be no commencement of use of the access road hereby approved by residents of any of the houses within the new housing development served off this access, until such time as the road junction with the A719 Main Road is provided with sightlines to the satisfaction of the Council's Roads and Transportation Division.

REASON In the interests of road safety.

5. Prior to the commencement of use of the access road hereby approved by residents of any of the houses within the new housing development served off this access, the access road shall have been provided with and connected to the Sustainable Urban Drainage System agreed under the Road Construction Consent for the site.

REASON To ensure that adequate drainage is provided.

6. Notwithstanding the details shown on the approved plan 2342 06 G, consent is not hereby granted for any development lying within the area annotated "Possible Future Development by Others".

REASON The Planning Authority is not through the issue of this consent granting any development in the area so identified, no application for same having been submitted.

Notes to Applicant:

1. The developer shall make early contact with the Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities requires 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.

3. Any maintenance or Community Service Account held land, in the ownership of the Council, that may be damaged by the works hereby approved should be reinstated to their satisfaction.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**