

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 29 OCTOBER 2004

**04/0610/FL: ERECTION OF 12 RESIDENTIAL DWELLINGS
AT FENWICK ROAD, KILMAURS
BY HOPE HOMES SCOTLAND**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought for the erection of 12 dwellinghouses in a mixture of styles. On the upper level there are seven units proposed, one single storey and three pairs of semi-detached houses ranging from four 1¾ storeys to two 2-storey villas.

1.2 The housing on the lower level is detailed as a linked terrace of five houses with pend accesses for off-street parking. Finishing materials are a mix of wet dash render stone detailing, sash and case windows and slate roofs.

1.3 It should be noted that this application presents an amendment of a proposal that was considered at the Development Services Committee in February this year. The application was considered by the Development Services Committee due to the fact that the Council owned the site at that time. That application, EAC Ref 03/0628/FL, involved the same number of houses as this new application and the recommendation from the Division was for approval. The Committee however refused the application for the following reason:-

' The proposed development would constitute an over development of the site and would have a detrimental effect on the existing residential amenity '.

1.4 This new application involves the same number and design of houses. The layout has been altered with the position of the houses being marginally revised to provide narrow front gardens for the houses detailed as being bounded with walls and railings, and an altered arrangement of private rear gardens. The applicants consider that these alterations address the previous reason for refusal.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the application is considered on balance not to accord with the terms of the Development Plan in respect of criteria attached to policy RES 4 and ENV 4. Therefore given the terms of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 In terms of those considerations the previous decision of the Development Services Committee is considered to bear heavily on the determination of the application and to add to the presumption in favour of the Development Plan position. Accordingly the recommendation should be one of refusal.

CONTRARY DECISION NOTE

Should the Committee agree to approve the application contrary to the recommendation of the Head of Planning, Development and Building Standards Division, the application will not require to be referred to the Development Services Committee as this would not be 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 for determination a full application which is to be considered by the Local Planning Committee as it involves more than 10 houses, is of local significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of land between Fenwick Road and Millhill Avenue, Kilmaurs in the Kilmaurs Conservation Area. The site has a marked difference in level. Its upper section on Millhill Avenue being some 5 metres higher than its lower part fronting Fenwick Road. Currently the site, whilst housing small pockets of maintained land (a wide verge on Millhill Avenue and a small area of land on its south east corner) is in an overgrown ill-managed condition. A section of Fenwick Road is included in the site for the purposes of additional land take on the lower side.

2.2 **Proposed Development:** Full permission is sought for the erection of 12 dwellinghouses in a mixture of styles. On the upper level there are seven units proposed, one single storey and three pairs of semi-detached houses ranging from four 1³/₄ storeys to two 2-storey villas.

2.3 The housing on the lower level is detailed as a linked terrace of five houses with pend accesses for off-street parking. Finishing materials are a mix of wet dash render stone detailing, sash and case windows and slate roofs.

2.4 It should be noted that this application presents an amendment of a proposal that was considered at the Development Services Committee in February this year. The application was considered by the Development Services Committee due to the fact that the Council owned the site at that time. That application, EAC Ref 03/0628/FL, involved the same number of houses as this new application and the recommendation from the Division was for approval. The Committee however refused the application for the following reason:-

' The proposed development would constitute an over development of the site and would have a detrimental effect on the existing residential amenity '.

2.5 This new application involves the same number and design of houses. The layout has been altered with the position of the houses being marginally revised to provide narrow front gardens for the houses detailed as being bounded with walls and railings, and an altered arrangement of private rear gardens. The applicants consider that these alterations address the previous reason for refusal.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Road's and Transportation Division have currently confirmed that they have no objections to the application but have made a deferral recommendation pending the clarification of the parking arrangements for one of the units

Noted.

3.2 Scottish Environment Protection Agency have advised that they have no objection to the proposal but have confirmed that the additional load from the development may cause the premature operation of consented storm overflows. They have requested that a written assurance from Scottish Water be sought in this regard, and recommended that a SUDS system be utilised for the purposes of treating surface water.

Noted.

3.3 Scottish Water has raised no objection to the proposal confirming their standard requirements. They have echoed the concerns of SEPA and have requested that surface water from the development be treated by means of a SUDS system.

Noted.

3.4 The Coal Authority have not advised of any ground stability issues that would impact on the proposal.

Noted.

3.5 The Architectural Heritage Society for Scotland has advised previously that they find the principle of the proposal acceptable. They acknowledged the attempts to produce a sympathetic traditional design and are now satisfied subject to the securing of the design of the rooflights utilised on certain house types.

Noted. This aspect can be secured by means of condition.

3.6 Historic Scotland have noted the improved alterations to the scheme and confirm that they approve of the proposal in terms of its design and scale. They do however qualify those comments by confirming that the loss of green space in a Conservation Area is regrettable.

The issue of the loss of the green space is noted, however it is considered that the general quality of the site is currently poor with only small parts actually managed in a manner that offers any positive contribution to the Conservation Area.

It is considered that this general endorsement of the proposal can be taken as an acknowledgement that the proposal is of sufficient quality for a site within a Conservation Area.

3.7 The Scottish Civic Trust have confirmed that they are satisfied with the proposal again subject to clarification of certain details, including finishing materials.

Noted. These matters can be addressed by means of conditions if the Committee is of a mind to approve the application.

3.8 Kilmaurs Community Council have objected to the proposal on a variety of grounds which have been included within those detailed in Section 4 of this report.

Noted.

3.9 West of Scotland Archaeology Service has advised that following qualified investigation work on the site there is no evidence of important archaeological deposits or features.

Noted.

3.10 East Ayrshire Council's Education Services have advised that they have no objection in respect of the application and their ability to meet their statutory responsibilities in providing school places for any children who may reside in the new houses.

Noted.

4. REPRESENTATIONS

4.1 In addition to the objection from Kilmaurs Community Council a further 13 objections have been received in respect of this current proposal. The grounds of objection vary in nature and are in the main a repetition of issues raised in respect of the previous application. They are summarised as follows:-

- Two storey housing is out of keeping with the area.

This aspect influenced the consideration of the previous application at the Development Services Committee. It was deemed that the lower two storey housing on Fenwick Road was out of character with the area. In respect of the upper housing on Millhill Avenue the arrangement of the two storey housing was considered to be out of keeping with existing housing in the street. This was because of the position of the housing relative to the street and it was held that this arrangement had a detrimental impact on the amenity of the area.

- The proposal will impact on privacy and amenity of existing residents.

It was not considered previously in the recommendation of the Division that the layout at that time would impact on the amenity or privacy of the residents. Equally the Committee's decision at that time did not reflect such a concern.

- The site is being over-developed by simply cramming houses on to the site.

As stated previously it is considered that the previous decision of the Development Services Committee endorsed this concern and is a material consideration in the determination of this application. The applicants have been made fully aware of this fact and have been advised that the extent of their revisions does not significantly address the previous reason for refusal.

- The proposal will result in both parking difficulties and increased road hazards to additional vehicles and pedestrian movement.

The Council's Roads and Transportation Division has confirmed that with the exception of the off-street parking for one plot they are satisfied with the proposal and its supplementary traffic calming measures.

- The proposal will result in sewerage management difficulties.

Noted. SEPA and Scottish Water have commented on this aspect and have not indicated that the application should be refused.

- The lack of front gardens on the houses is out of keeping with the area.

This aspect is noted. It is considered that this influenced the decision of the Development Services Committee, although it was not an issue of concern to the amenity bodies.

- The proposal will result in the loss of open space.

It does not appear that the open space areas are utilised to any great extent. They are not safeguarded in the Development Plan and the marketing of the site did not specify a constraint to retain them.

- The level difficulty will result in a lack of suitable amenity/privacy for the residents.

There has been an attempt to address this aspect by means of design in order to minimise overlooking and improve residential amenity. The constraints of the site have made it difficult to address these issues whilst endeavouring to minimise the impact on existing residents. It is considered that the amendments in certain plots have now resulted in a constrained arrangement for the rear private garden ground. Accordingly while there has been an attempt to create more private garden ground it is considered that the arrangement would result in an unsatisfactory amenity provision for certain plots. Notably plots 2,3,8 and 9.

- The loss of the existing shrubs and hedges would be detrimental to the amenity of the area.

The quality of the existing growth on site has been assessed and is of no real merit .

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that 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. Given the essentially local issues raised, it is considered appropriate to assess the application against the terms of the local plan. The previous decision to refuse a very similar application in February this year is regarded as a significant material consideration in the assessment of this current application.

In terms of this application the relevant policies in the adopted local plan are as follows:-

5.2 Policy RES 4 states that the Council will positively encourage the sympathetic residential development of gap sites not specifically identified for particular development purposes. The site is not identified for any specific purpose and the proposal requires to be assessed against the following criterion:-

- Impact on the surrounding natural and built environment and adjacent uses.
- Transportation and infrastructure implications
- Compatibility with surrounding densities and house types
- Compliance with the Council's Development Promotion and design guidance.

In relation to the previous application it was indicated in the report that a development of this number of units differed in density and character from the adjacent houses but was acceptable because it offered a transition between different existing house styles and achieved the improvement of a poorly maintained area. However, in attempting to address the reason for refusal, the applicant has produced an arrangement which is not considered to be acceptable in terms of RES 4.

5.3 Policy ENV 4 of the local plan confirms the Council's position regarding proposals within a Conservation Area in respect of ensuring that the development is sympathetic to the area in terms of layout, size, scale, etc.

For the reasons discussed above, the application cannot be supported in terms of its layout.

5.4 Policy TLR 5 of the Adopted Local Plan confirms that developers will be requested to enter into an agreement with the Council to make contributions to the provision of appropriate leisure and recreational facilities in the local area.

The applicants have previously been requested through their agents to enter into such an agreement and have confirmed that they will be prepared to make a contribution consistent with the terms of this policy.

In forming a judgement as to the application's compatibility with the local plan, the application is coloured by the earlier Committee decision. The applicants have produced a revised layout which is not considered to be compatible with policy requirements.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The material considerations relevant to the consideration of this application are the consultation responses, the letters of objection, the relevant national guidance for applications in conservation areas and the previous decision of the Development Services.

6.2 The consultation responses are detailed in Section 3 of the report and are considered to be supportive of the application.

6.3 The letters of objection are also addressed in the report and on balance it is considered that these points raise valid issues and indeed issues that were raised in response to the previous application. The recommendation of the Division in respect of that application drew upon the policy framework and the material considerations at that time. Given the decision of the Development Services Committee it is considered that the balance in favour of the proposal, which was a fine one within the recommendation to that Committee, has now shifted.

6.4 The previous decision of the Development Services Committee is considered to be extremely material in the assessment of this current application. The amendments introduced to address that decision are not considered sufficient to allow a favourable recommendation, indeed they produce garden arrangements that are not acceptable in policy terms.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

7.2 The Committee should note the following if they are of a mind to approve the application. The applicants agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5 will require a legal agreement to be entered into between the Council and the applicant under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report the application is considered on balance not to accord with the terms of the Development Plan in respect of criteria attached to policy RES 4 and ENV 4. Therefore given the terms of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 In terms of those considerations the previous decision of the Development Services Committee is considered to bear heavily on the determination of the application and to add to the presumption in favour of the Development Plan position. Accordingly the recommendation should be one of refusal.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

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

Alan Neish
Head of Planning Development and Building Standards

12 October 2004
(IW/MMM/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notes/Certificates.
3. Consultations.
4. Representations.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
- 7 Previous application EAC ref 03/ 0628/ FL.

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0628/FL

Site of Proposal: Fenwick Road
KILMAURS

Nature of Proposal: Proposed Erection of 12 No. Residential
Dwellings

Name & Address of Applicant: Hope Homes Scotland
Watson Terrace
DRONGAN
Ayr KA6 7AB

Name & Address of Agent:

DPOs Reference: IW/MMM

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

1. The proposed development would constitute an over development of the site and would have a detrimental effect on the existing residential amenity.
2. The proposed development is contrary to Policy RES4 of the adopted East Ayrshire Local Plan 2003 in that it would create an unacceptable layout and substandard amenity for plots 2, 3, 8 and 9.

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