

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 30 MARCH 2007

**07/0102/FL: SINGLE HOUSE WITH DETACHED GARAGE ON LAND TO
SOUTH EAST OF EXISTING RESIDENTIAL DEVELOPMENT UNDER
CONSTRUCTION
AT LAND EAST OF 25 WATERSLAP, FENWICK
BY DICKIE AND MOORE LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought to erect a one and a half storey dwellinghouse that will form part of the previously consented residential development for 6 houses. The dwellinghouse will be of similar design and materials to the residential site with the materials consisting of stone and render with a slate roof. A detached double garage will also be erected to the south east of the house which will separate the proposed dwelling from the footpath of the residential development and will be constructed of the same materials as the house. Access to the house will be taken from the new residential development.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is considered to be contrary to the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 of the report there are material considerations relevant to this application. The consultees have no objections to the proposal. The impact on the amenity of the area is considered to be acceptable and actually improves the appearance of the main residential development without compromising the donor property. The planning history of the residential site carries weight as the proposal is to infill one of the corners of this estate. The settlement boundary of Laigh Fenwick has essentially been changed due to the grant of this consent and in a practical sense, it can be argued that the site is no

longer within the Rural Protection Area. Approval of this site will not have a detrimental effect on the surrounding countryside or result in sporadic development.

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 it will not require to be referred to the Development Services Committee as there would be no significant breach of Council 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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the application is contrary to the East Ayrshire Local Plan and a letter of objection has been received.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the rear portion of the rear garden of 25 Waterslap, a large 2 storey dwelling with single storey extensions to side and rear and numerous trees and bushes of various quality. Number 25 itself sits on the corner of Waterslap and the C66 Raith Road. The site is bounded to the west by number 25 Waterslap, to the south by the C66 Raith Road and fields on the opposite side of the road and to the east and north by an approved residential site, currently under construction.

2.2 **Proposed Development:** Full planning consent is sought to erect a one and a half storey dwellinghouse that will form part of the previously consented residential development for 6 houses. The dwellinghouse will be of similar design and materials to the residential site with the materials consisting of stone and render with a slate roof. A detached double garage will also be erected to the south east of the house which will separate the proposed dwelling from the footpath of the residential development and will be constructed of the same materials as the house. Access to the house will be taken from the new residential development.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objections to the development.

Noted.

3.2 Fenwick Community Council have no objections to the development provided that Dickie and Moore try to provide as "oldy worldly" a finish to the whole development as much in keeping with the village as is possible.

The proposed finish will match closely the design and materials approved by the Reporter at the Public Local Inquiry for the main residential site. It is therefore considered that by matching the design of this house to the estate, little visual impact will occur.

3.3 Scotland Gas Networks have no objections to this development.

Noted.

3.4 Scottish Water have no objection to this development

Noted.

3.5 West of Scotland Archaeology Service have no objections to this development.

Noted.

4. REPRESENTATIONS

4.1 Two letters of objection were received in connection with this application which raised the following points:

4.2 It constitutes a new dwelling in the countryside and would be sporadic development in terms of Circular 24/1985.

Under the boundaries set out in the Local Plan this site is within the Rural Protection Area and would therefore be classed as being within the countryside. The appropriate Policies are discussed at 5.4 and 5.5 below. Planning Circular 24/1985 does indeed mention "sporadic development" however this Circular has been superseded by SPP 21 and is no longer relevant.

4.3 It lies outwith the urban envelope of Laigh Fenwick.

The site does lie outwith the current boundaries of Laigh Fenwick however the site is to the side of an approved residential development and remains clustered within a residential area which includes the new residential development and 25 Waterslap.

4.4 It is new development in the countryside without agricultural support.

The site is technically within the countryside and has no agricultural justification however this development is not in connection with an agriculture use and is clustered with other approved residential elements that are also outwith the Local Plan settlement boundaries.

4.5 At least one previous application for development on this site was rejected in 2004.

Consent was refused on this site in 1997, 97/0157/OL, for outline residential consent, not in 2004.

4.6 It is contrary to the draft Local Plan.

The proposal is not contrary to the draft Local Plan, however it is contrary to the Adopted Local Plan. The Consultative Draft of the new Local Plan shows the current site within the settlement boundary of Laigh Fenwick, however this is not normally a factor to which significant weight can be applied. However when considered in relation to the site and surrounding constraints it appears a logical release.

4.7 The new development of houses at lower Waterslap has no bearing on this site. As specifically stated by Mr Croft at the Public Inquiry in April 2005, approval of this site substantially, but erroneously in my view and the Council's, on the site being classed as brownfield. He further emphasised that no other applications could cite Waterslap development as setting a precedent.

Although the Council opposed the original development of the land to the north and east of the site, the Reporter assessed the site as brownfield and granted permission to the developer. Therefore the Council is bound by this decision. There is no mention in the Reporters conclusion to the appeal regarding the citing of Waterslap as setting a precedent for other development. The presence of the appealed site, the existing house and the presence of the road make this an isolated site surrounded on three sides by residential users

and on the other by a road, detached from the surrounding countryside.

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).

Adopted Ayrshire Joint Structure Plan

5.2 Policy COMM5 of the Adopted Ayrshire Joint Structure Plan states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

It is considered that although the site is outwith the settlement boundary of Laigh Fenwick, the new residential development to the north and east of the site creates an infill site with existing housing groupings, namely 25 Waterslap and the new development. This creates an opportunity for a further house to fill this site and will give the residential development a better balance.

5.3 Policy G5 states that development proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlements, development proposals 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
- D. provides for the operational needs of agriculture and forestry

The proposal does not meet with any of the above criteria however due to the changed circumstances after the approval of the main residential development, a situation has been created where the boundary of Laigh Fenwick has effectively been changed and therefore the proposal can be argued to be acceptable as it is clustered with other houses.

Adopted East Ayrshire Local Plan

5.4 Policy ENV 7 of the Local Plan states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. Developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

It is considered that the proposal meets with the Councils Design Guidance Number 2: New Residential Development. The design and materials are of a good quality and will blend with the residential development.

5.5 Policy RES13 states that the Council will be supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

Developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

It is considered that although the site is outwith the settlement boundary of Laigh Fenwick, the new residential development to the north and east of the site creates an infill site with existing housing groupings, namely 25 Waterslap and the new development. This creates an opportunity for a further house to fill this site and will give the residential development a better balance.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the letter of objection, the planning history of the site and the impact on amenity of this area.

Consultation Responses

6.2 It is not considered that any aspects of the consultation responses have raised any issues that would warrant the refusal of this application.

Representation Received

6.3 It is considered that the points regarding the site being outwith the settlement boundary of Laigh Fenwick are correct however due to the introduction of the main residential development and the position of 25 Waterslap, then this development is acceptable as it remains clustered with existing residential development and will actually improve the appearance and balance of the main residential site without effecting the setting of the donor property or Laigh Fenwick village.

Planning History

6.4 Planning Application 97/0157/OL, proposed development of land for residential purposes in outline and was refused on 22 May 1997.

6.5 Application 99/0460/FL for a proposed house extension and new replacement garage for 25 Waterslap was approved under the scheme of delegation on 15 July 1999.

6.6 Planning application 04/0031/FL for residential development comprising 6no detached private dwellings with access from Waterslap was refused by the Northern Area Local Planning Committee on 23 April 2004, however it was subsequently granted on appeal by the Scottish Ministers. Although the proposed site sits outwith this application site, it is proposed to utilise the access road of this development as well as maintaining the design and materials of the houses.

6.7 This 2004 application was refused on the grounds that the proposal was contrary to Local Plan Policies RES 2 and RES 13 of the East Ayrshire Local Plan, contrary to policies ADS 3 and G 5 of the Approved Ayrshire Joint Structure Plan and vehicular access to the site would involve the felling of a mature Horse Chestnut tree which was considered to have a high amenity value and

contributed to the character of the area approaching Laigh Fenwick. The applicant appealed the decision and following a Public Local Inquiry the application was approved subject to conditions.

6.8 Application 06/0953/FL relates to the house at the rear of 25 Waterslap and is part of the residential development given approval in application 04/0031/FL. The proposed works were for amendments to and repositioning of house type, garage and footpath. The proposal was approved, subject to conditions, by the Northern Area Local Planning Committee on 21 December 2006.

Impact on the amenity of the Area

6.9 It is considered that the proposal will have a limited impact on the amenity of the surrounding area. The approved residential development is better balanced with the inclusion of this house as well as being in a good position to overlook the path connecting the development to the C66 road, an improvement in safety terms. The loss of rear garden ground of the donor property is thought to be acceptable as it retains a rear garden of around 900 square metres.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is considered to be contrary to the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 of the report there are material considerations relevant to this application. The consultees have no objections to the proposal. The impact on the amenity of the area is considered to be acceptable and actually improves the appearance of the main residential development without compromising the donor property. The planning history of the residential site carries weight as the proposal is to infill one of the corners of this estate. The settlement boundary of Laigh Fenwick has essentially been changed due to the grant of this consent and in a practical sense, it can be argued that the site is no longer within the Rural Protection Area. Approval of this site will not have a detrimental effect on the surrounding countryside or result in sporadic development.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions 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 it will not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

22 March 2007
DW/RH
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Adopted East Ayrshire Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. Planning Application No: 04/0031/FL.
7. Planning Application No. 99/0460/FL.
8. Planning Application No. 06/0953/FL.
9. Planning Application No. 97/0157/OL.

Anyone wishing to inspect the above papers please contact David Wilson, Planning Officer, on 01563 576779.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

07/0102/FL

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|------------------------------|----------------------------------------------------------------------------------------------------------------|
| Site of Proposal: | Land east of 25 Waterslap FENWICK KA3 6AJ |
| Nature of Proposal: | Single house with detached garage on land to south east of existing residential development under construction |
| Name & Address of Applicant: | Dickie and Moore Ltd Building 1 Waverley House Hamilton Business Park HAMILTON ML3 0QA |
| Name & Address of Agent: | G D Lodge Architects Empire House 131 West Nile Street GLASGOW G1 2RX |

DPOs Reference: DW/SA/RH

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

1. No surface water shall issue from the site onto the public road.

REASON To ensure the provision and maintenance of a secure road surface in the interests of road and public safety.

2. During construction, the developer of the site shall take adequate and continuing measures to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

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

3. External construction works on the development hereby approved shall not be carried out before 08:00 hours and after 18:00 hours Monday to Fridays, outwith 09:00 hours – 17:00 hours Saturdays nor at any time on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interests of residential amenity.

4. Notwithstanding the plans hereby approved, the external finish of the house shall match those houses approved under application 04/0031/FL.

REASON To protect visual amenity.

5. Notwithstanding the provision 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 plans) shall be erected on the site, unless a further specific planning application is submitted to and approved in writing by the Planning Authority.

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the area.

6. Any screen fencing to be erected within the site shall not project forward beyond the front building line of the dwellinghouse.

REASON To protect visual amenity.

7. Notwithstanding the submitted plans details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved in writing by the Planning Authority before any development commences on the site.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

8. Details of existing and proposed ground levels and finished floor levels shall be submitted to and approved by the Planning Authority before any development commences on site and thereafter the development shall be completed in accordance with such approved details.

REASON In the interests of visual amenity and public safety due to potential flooding issues.

NOTE:

1: The applicant should ensure that prior to development commencing on site, they have secured agreement with Scottish Water regarding the suitability of all proposed drainage connections and the suitability of the existing infrastructure to accommodate such connection.

**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.**