

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 23 APRIL 2004

**04/0031/FL: PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING
6 NO. DETACHED DWELLINGS WITH ACCESS FROM WATERSLAP
AT LAND EAST SIDE OF WATERSLAP
BY DICKIE AND MOORE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full Planning Permission is sought for the erection of 6 detached, 4 bedroom villas with associated gardens, access road and parking. The houses would be built from re-constructed stone and render, with slate roofs.

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 at Section 5 of the report, the application is contrary to the policies of the Ayrshire Joint Structure Plan (Policies ADS3 and G5) and the Adopted East Ayrshire Local Plan (Policies RES2 and RES13). There would also be an adverse impact arising from the loss of a mature chestnut tree. For these reasons it is considered that the application should be refused.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will be required to be referred to the Development Services Committee as there would be a 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 in accordance with the Scheme of Delegation as it is contrary to the Development Plan, is the subject of objections and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located on the southern fringe of Laigh Fenwick, and lies within a bend of the Fenwick Water. The site extends to 1.97 acres and is bounded on the north and east by the Fenwick Water, on the west by Waterslap and on the south by the C66, Waterside road. The site is level and was formerly used as a nursery. Currently the site is covered with rough grass, shrubs and young to early mature trees. A block of young (14/18 year old) Norway Spruce runs across the site. There are a number of mature Horse Chestnut trees around the boundary of the site.

2.2 **Proposed Development:** Full Planning Permission is sought for the erection of 6 detached, 4 bedroom villas with associated gardens, access road and parking. The houses would be built from re-constructed stone and render, with slate roofs.

3. CONSULTATIONS AND ISSUES RELATED

3.1 Transco have no adverse comments regarding the proposed development.

Noted.

3.2 The Coal Authority has no adverse comments regarding the proposed development.

Noted.

3.3 Scottish Water have indicated that they object to this application as the proposed development drains to the public sewerage system. The cost of providing infrastructure to serve the development is outwith Scottish Water's "reasonable cost" obligations in terms of Sewerage (Scotland) Act 1968. Scottish Water would remove the objection if the applicant;

- a) Bears the cost of the increase in capacity to accommodate their development, and/or
- b) Promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system and is satisfactory to Scottish Water.

The proposed development lies within the raw water catchment for Amlaird/Corsehouse Water Treatment Works. Scottish Water objects to this application on the grounds that the impact of the development may be such that it will prejudice their ability to supply potable water. Should the developer be able to satisfy Scottish Water that there is no significant impact then we will consider withdrawing this objection.

Noted. See Section 6 below

3.4 East Ayrshire Council's Outdoor Services have no objection to the development providing the row of Chestnut trees along the roadside is retained. These trees have a significant impact on the entrance to Fenwick, and have a high amenity value.

Noted. The formation of a vehicular access would require the felling of one of the trees.

3.5 East Ayrshire Council's Roads and Transportation Division have advised that the application be deferred as the application site lies outwith the 30mph limits and therefore a sightline standard of $x=2.5$ metres by $y=215$ metres would be required. The applicant has not indicated the sightlines standard on the submitted layout. This standard could be reduced to $y=90$ metres if the 30mph limit were extended to the junction of the C66 Waterside road. Since Waterslap is an unclassified road the 30mph limits can be extended relatively easily as it can be done without a traffic order. All that is required is that the street lighting be extended to the 30mph limits. The pedestrian access to the dwellings is indicated as being onto the C66 Waterside road but does not indicate the extent of the new footway. This footway must extend to the existing public footway at Raith Road. The construction of a 2 metre footway can not be provided within the road verge over the full length of the route and private ground will be required. The formation of the footway will also affect the road drainage and therefore the

developer will be required to provide alternative means of disposal for the surface water which currently runs off the road onto the surrounding land.

The proposed new housing road will require surface water run off to have a SUDS facility incorporated with the drainage system. The applicant should indicate the proposed method and intended maintenance authority. The Roads Division will require to approve any SUD's facility into which road surface water discharged regardless of the maintenance authority. The applicant should therefore discuss the proposed method with the Roads Division at the earliest opportunity.

The proximity of the Fenwick Water to the proposed dwellings will require a Flood Risk Assessment to be undertaken and consideration of how access to the watercourse is maintained when the dwellings are erected.

Noted. See Section 6 below.

3.6 Fenwick Community Council objects to the application for the following reasons:

- i) The site is not included in the Local Plan for Residential Development.

Noted. See Section 6 below.

- ii) This site has been subject to previous applications, and even taken to Appeal where it was refused; the last time in respect of a single dwelling.

Noted. See Section 6 below.

- iii) The present access to the site is from Waterside Road and totally unsuitable in that the road is narrow and has no footpaths. The proposals in recognising this basic fact are now suggesting access from Waterslap, which in our opinion is even less acceptable.

Noted. The Roads Division has recommended deferral of the application pending resolution of several issues.

- iv) The site is very close to Fenwick Water, and development would require support works to its banks and would be likely to affect the flow and erode the existing banks.

Noted. See Section 6 below.

- v) We understand that the current drainage infrastructure would not support further development in this area.

Noted. Scottish Water object to the proposal on the basis of "reasonable cost" obligations.

- vi) If East Ayrshire Council were to change the established policy then immediately further applications would come forward. The character and special ambience of Laigh Fenwick would be destroyed forever.

Noted. See Section 6 below. The proposed access would impact on an existing mature tree.

4. REPRESENTATIONS

4.1 Letters of objection have been received from Scottish Water and Fenwick Community Council, as detailed in Section 3 of this Report. Seven other letters of objection were received, and the grounds of objection are:

- i) The site is outwith the settlement boundary, and no justification has been submitted for a boundary extension.

Noted. The applicants have now submitted a detailed representation that seeks to support the proposal based upon the history of the site's consideration for inclusion in the Local Plan.

- ii) The Flood Risk Document highlights difficulties associated with building on this ground. Cutting down plantation on this site, constructing a new road and considerable areas of hard-standing/footpaths will greatly increase run off into the river. The Flood Risk Document assesses whether the site access from the Waterside Road can be maintained during a 200 year storm return period. The actual proposed access is at a lower level, just at the point on Waterslap where there could be flooding and where water would overspill, if the narrow bridge opening were to be blocked by water-born debris.

Noted. East Ayrshire Roads and Transportation Division have assessed the Flood Risk Document and have asked for further information.

- iii) The application site does not extend beyond the development area for 6 houses and access road, yet a footpath is shown onto the C66 Waterside Road. There is no space for a footpath on the northern side of the C66 going east towards Raith Road. The plans also indicate provision of a footpath, or a verge on the north side of the proposed access road from Waterslap. This appears to be continued over Waterslap Bridge where there is no footpath.

Noted. The Roads Division having assessed the proposal, recommend deferral to address several issues; some of which have impacts outwith the site boundary.

- iv) There is no indication whether sightlines can be achieved from a new entrance off Waterslap. This road is often quite congested, because some residents have to park on the public road. A new access just

20 metres south of the bridge near the junction with the C66 Waterside Road will add to congestion and potential danger.

Noted. See Roads' comments above and Section 5 below.

- v) The houses proposed are large villas totally alien to a country village. This bulk in relation to the plot size.

Noted.

- vi) This development would involve the removal of a considerable number of trees. There is no assessment of potential damage to the trees covered by the Tree Preservation Order.

Noted. The Council's Arboricultural Officer has expressed concern about the impact on the roadside chestnut trees.

4.2 A letter of representation from the applicants in support of the proposal has been submitted stating that the planning history of the site is pertinent and should be taken into account in the determination of the current planning application.

- i) The site was designated by East Ayrshire Council as a development site throughout the preparation and promotion of the East Ayrshire Local Plan.

Noted. See 5.1 below.

- ii) Given the Council's clear commitment over a number of years to the site, the applicant has invested considerable expense to develop the site, including the commissioning of technical reports in terms of infrastructure provision and access.

Noted. See 5.1 below.

- iii) In relation to the application's assessment against the policies of the Local Plan, Policy RES 2 is not applicable as the site is not a greenfield site, but adjacent to the settlement boundary. Similarly in relation to assessment against Policy RES 13.

Noted. The application requires to be assessed against Policies RES 2 and RES 13 of the Adopted East Ayrshire Local Plan, as the site is outwith the urban boundary of Laigh Fenwick.

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 Adopted East Ayrshire Local Plan (EALP).

In the finalised draft of the EALP, this site was identified as a housing development opportunity. Whilst the Scottish Executive Reporter's consideration of the site at the Local Plan Public Inquiry did not result in any recommendation by him that the site should be deleted the Council subsequently did not include this site in the adopted version of the Plan. The site now lies within the Rural Protection Area. This was because it was considered that the development of the site would be unacceptable, and that the Fenwick Water should remain the natural boundary of the settlement.

Ayrshire Joint Structure Plan

5.2 Policy ADS3 states that new residential, commercial, cultural, educational and community development shall be directed to, and located within, settlements as defined in local plans.

This proposal is located outwith the settlement boundary of Laigh Fenwick and therefore the proposal is contrary to Policy ADS3.

5.3 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- A has a demonstrated site specific location need;
- B can be justified in terms of social and economic benefit to the community;
- C contributes to rural land diversification: or
- D provides for the operational needs of agriculture and forestry.

No justification for the proposal has been provided in terms of any of the above criteria. It is therefore contrary to Policy G5. The applicants have submitted a detail representation in support of the proposal which is addressed in para 4.2 above.

East Ayrshire Local Plan

5.4 The proposed development can either be defined as an extension to the settlement boundary or a residential development in the countryside. Policies RES 2 and 13 deal with these issues.

5.5 Policy RES 2 states that, with the exception of dwellings covered by Policies 13 and 14, proposals to extend the greenfield supply of land for residential development outwith, but adjacent to, the settlement boundaries will not be acceptable unless five stated criteria are fully satisfied, these being:

- (i) there is a demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area;
- (ii) the site can be demonstrated to be effective and contribute to output during the shortfall period;
- (iii) the proposal meets the terms of the Housing Development Strategy of the Local Plan;
- (iv) road access and all other services and infrastructure can be provided to the standards required by the relevant public and statutory service providers; and
- (v) the proposal accords with the Council's policies with regard to design and layout and has minimal impact on the visual and natural environment.

The Reporter did not indicate that there was any shortfall in the supply of effective housing land in his report on the East Ayrshire Local Plan Public Local Inquiry. This proposal therefore does not meet with the provisions of Policy RES 2, (Criteria i).

5.6 Policy RES 13 is 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 for one of the four stated purposes:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed houses 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 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 RES 8 above.

The policy also states that development for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

No supporting information consistent with the above criteria has been submitted by the applicant to justify this proposal for housing development in the Rural Protection Area. A letter on behalf of the applicant offering representations in support of the application is referred to in para 4.2 above.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultations detailed in Section 3 of the report, the representations detailed in Section 4 of the report and the planning history of the site.

6.2 The consultations from East Ayrshire Council Roads Division, and Scottish Water are not supportive of this development. Scottish Water have concerns about the implications for the existing water and sewerage infrastructure, and the cost of providing new infrastructure which would be outwith Scottish Water's "reasonable costs" obligations. East Ayrshire Council's Roads Division have advised that the application should be deferred as the applicant has not indicated that the necessary sightline standards can be achieved. This would also necessitate alterations to the street lighting and speed limits on Waterslap. The proposed pedestrian access onto Waterside Road, would require the construction of a footpath along to Raith Road. This cannot be achieved within the confines of the road verge and would require private ground. The formation of a footpath will have implications for the drainage of surface water. Drainage from the land surfaces within the development site will require SUD's facility. This is not shown on the submitted plans. The Flood Risk Assessment should indicate how access to the watercourse is maintained when dwellings are erected. Resolution of these issues would impact on land outwith the site.

Notwithstanding the above, the proposed development is contrary to the Development Plan as indicated on Section 5 of the report.

6.3 There are 4 previous applications relating to various parts of the site. All were refused as being contrary to the Development Plan. The latest two in 1992 and 1997 were for one house and two houses respectively. The application (for one house) in 1992 was appealed, and was subsequently dismissed.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSION

8.1 As indicated at Section 5 of the report, the application is contrary to the policies of the Ayrshire Joint Structure Plan (Policies ADS3 and G5) and the Adopted East Ayrshire Local Plan (Policies RES2 and RES13). There would also be an adverse impact arising from the loss of a mature chestnut tree. For these reasons it is considered that the application should be refused.

9. RECOMMENDATION

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

CONTRARY DECISION NOTICE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will be required to be referred to the Development Services Committee as there would be a significant breach of Council policy.

Alan Neish
Head of Planning, Development and Building Standards

15 April 2004
(AG/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Previous Planning Application No: KL/E/85/24A; KL/E/85/24B; KL/E/OL/92/077A and 97/0157/OL.

Anyone wishing to inspect the above papers please contact Ailsa Graham on 01563 576787.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0031/FL

Location:	Land East Side of Waterslap Laigh Fenwick FENWICK KA3 6AJ
Nature of Proposal:	Proposed Residential Development Comprising 6 No. Detached Private Dwellings with Access from Waterslap
Name & Address of Applicant:	Dickie & Moore Suite 1 Building 1 Waverley House HAMILTON ML3 0QA
Name & Address of Agent:	G D Lodge and Partners Empire House 131 West Nile Street GLASGOW G1 2RX

DPOs Reference: AG/MMM

The above FULL application should be refused on the following grounds:-

1. The proposed development lies outwith the urban envelope of Laigh Fenwick as defined in the Adopted East Ayrshire Local Plan and, given the absence of any persuasive justification consistent with the requirements of the policy, would therefore be contrary to Policy RES 2.
2. The proposed development would constitute the erection of new dwellings in the countryside without agricultural support and would therefore not be in accordance with Policy RES 13 of the Adopted East Ayrshire Local Plan.
3. The proposed development would be contrary to Policies ADS 3 and G5 in the Approved Ayrshire Joint Structure Plan by reason of the proposed development lying outwith the settlement boundary and having no justification consistent with the terms of these policies.

4. The provision of a vehicular access to serve the site would require the felling of a mature Horse Chestnut tree which has a high amenity value and contributes to the character of the area upon approaching Laigh Fenwick.

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VIEWING PLEASE CONTACT (01563) 576790.**