

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 21 APRIL 2006**

**04/0652/FL: ERECTION OF 28 DWELLINGHOUSES AND ASSOCIATED  
ROADS AND GROUNDWORKS  
AT SILVERWOOD ROAD AND MEADOWSIDE, CROOKEDHOLM  
BY MCTAGGART CONSTRUCTION**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 This report is required, as the developer has chosen to amend the house types on this development. The application has previously been presented to and was approved by the Planning Committee on 21 January 2005 however the issuing of the consent was withheld as the Section 75 Legal Agreement to upgrade the adjacent play facilities had not been concluded.

1.2 The only change from the original proposal previously presented to and approved by the Planning Committee is a change to the house types. The new house types are approximately 2.5 metres longer than those previously approved.

1.3 The proposal therefore remains, as previously, for the erection of 26 detached two-storey dwellinghouses and 2 semi-detached two-storey dwellinghouses and the associated access road. The proposed new street forms a horseshoe arrangement linking Meadowside with Silverwood Road. It is proposed that the dwellinghouses which bound onto the Leveret Lea would be located approximately 13 metres from the existing boundary fences. The proposal includes a 15 metre deep landscape boundary enclosing part of the northern boundary and all the eastern boundary of the site. A 6 metre high fence is proposed on the southern boundary of the site between the proposed housing and the existing football pitch and play park to the south. The site would contain no public open space or play equipment.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town**

**and Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in paragraphs 7.1 and 7.2 of the report.**

### **3. CONCLUSIONS**

3.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions and the applicants acceptance of a legal agreement as detailed in Section 7 above.

### **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, on the basis of the principle of residential development, the application will require to be referred to the Development Services**

**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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**04/0652/FL: ERECTION OF 28 DWELLINGHOUSES AND ASSOCIATED  
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AT SILVERWOOD ROAD AND MEADOWSIDE, CROOKEDHOLM  
BY MCTAGGART CONSTRUCTION**

**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, due to the nature of the proposed development which comprises 28 residential units, and the fact that the application is subject of an objection.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The site is located to the east of Leveret Lea in Crookedholm and extends to approximately 0.5 hectares in area. It is currently an agricultural field and has gentle gradients from north to south and from west to east. The site is bounded on three sides by Hawthorn hedges and has no fixed boundary along its eastern most side.

2.2 **Proposed Development:** This report is required, as the developer has chosen to amend the house types on this development. The application has previously been presented to and was approved by the Planning Committee on 21 January 2005 however the issuing of the consent was withheld as the Section 75 Legal Agreement to upgrade the adjacent play facilities had not been concluded.

2.3 The only change from the original proposal previously presented to and approved by the Planning Committee is a change to the house types. The new house types are approximately 2.5 metres longer than those previously approved.

2.4 The proposal therefore remains, as previously, for the erection of 26 detached two-storey dwellinghouses and 2 semi-detached two-storey dwellinghouses and the associated access road. The proposed new street forms a horseshoe arrangement linking Meadowside with Silverwood Road. It is

proposed that the dwellinghouses which bound onto the Leveret Lea would be located approximately 13 metres from the existing boundary fences. The proposal includes a 15 metre deep landscape boundary enclosing part of the northern boundary and all the eastern boundary of the site. A 6 metre high fence is proposed on the southern boundary of the site between the proposed housing and the existing football pitch and play park to the south. The site would contain no public open space or play equipment.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council's Roads and Transportation Division have no objection to the proposal subject to the developer addressing the issue of off street parking within Meadowside and Silverwood Road and the attachment of the appropriate roads requirements to the grant of any planning consent.

***Since the approval of the proposal at the previous Committee the applicant has addressed the issue of on-street parking and consent is in place to implement the necessary requirements. Should the Committee be minded to approve the proposal the developer will be required to enter into a Section 75 Agreement with the Council to address the issue of on-street parking within the adjacent streets and the provision of alternative off-street spaces. Appropriately worded conditions can be attached to any grant of planning permission for the proposed development to ensure that various other roads issues within the site are addressed.***

3.2 Scottish Gas Networks have raised no objections to the proposed development

***Noted.***

3.3 Scottish Water object to the proposal due to the cost of providing infrastructure to serve the development being outwith Scottish Water's "reasonable cost" obligations in terms of the Sewerage (Scotland) Act 1968. However they have indicated that they are willing to remove their objection if the applicant bears the cost of the increase in the capacity of Scottish Water's existing infrastructure to accommodate their development, and/or promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system and which is in terms satisfactory to Scottish Water

***A note can be attached to any grant of planning consent addressing this matter and promoting appropriate discussions between the developer and Scottish Water.***

3.4 The Scottish Environment Protection Agency (SEPA) have made no objection to the proposal however any planning permission granted should

include a condition requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland, which was published by CIRIA in March 2000.

***Should planning permission be granted for the proposed development, an appropriately worded condition can be imposed to ensure that a SUDS arrangement to SEPA's satisfaction is implemented within the development to deal with surface water drainage.***

3.5 The Council's Neighbourhood Services Outdoor Amenities Section have noted that no public open space has been provided within the site. However they have indicated that in lieu of the requisite 900 square metres of open space provision being made within the site, they are amenable to the developer contributing to the provision of new play equipment for toddlers, juniors and teenagers within the adjacent playing field.

***The developer has agreed to fund the provision of new play equipment within the adjacent area of public open space. A Section 75 Legal Agreement, between the developer and the Council, will be required to facilitate this process.***

3.6 Crookedholm Community Council have not responded in relation to the proposal.

***Noted.***

#### **4. REPRESENTATIONS**

One letter of representation as been received in relation to the proposal. It indicates that a right of way exists through the site.

***The Council has no record of a formal right of way through the site.***

#### **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 (2003).

## Ayrshire Joint Structure Plan

5.2 With regard to the Structure Plan the application is consistent with policy G1 as the proposal is an identified housing site within the settlement boundary of Crookedholm.

## East Ayrshire Local Plan

5.3 Policy RES1 encourages and supports the residential development of those Development Opportunity sites identified for housing purposes on the individual Local Plan maps and reserves them for residential and associated recreational and amenity open space development.

***As an identified residential development opportunity site the principle of residential development at this location is acceptable.***

5.4 Policy RES 3 indicates that in appropriate circumstances the Council will expect the housing developers to enter into Section 75 Agreements under the Town and Country Planning (Scotland ) Act 1997 when such agreements are requested.

***The Council has requested that the developer enters into a Section 75 Agreement with regards to the provision of play equipment within the adjacent playing field, a contribution further to Policy TLR5 relative to the provision of leisure, recreation and sporting facilities in the area and the addressing of off street parking issues for the adjacent roads. The developer has agreed to enter into said Agreement.***

5.5 Policy RES. 19 requires that all housing developers provide areas of recreational and amenity open space in their developments to the indicative basic standards set out in Schedule 3 of the Local Plan.

***It is considered more appropriate in this case, to pursue the provision of new play equipment within the adjacent open space area, then to provide it within this site.***

5.6 Policy RES 21 indicates that where a development is proposed which would necessitate the provision of open space and that development is located adjacent to or in close proximity to an area of existing open space in need of upgrading or improvement, the Council may, as an alternative to providing new open space areas, require the developer through an appropriate Section 75 Agreement, to upgrade and improve the existing open space area and provide for the maintenance of that area for a specified period to be agreed.

***In this instance agreement has been reached between the developer and the Council that no open space provision is required within the development site provided the developer funds the installation of new play equipment within the adjacent Council owned public open space. This Agreement is consistent with Policy RES 21.***

5.7 Policy RES 22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

***The proposed development ensures that each residential unit accords with the requirements of Schedule 4 of the Local Plan.***

5.8 Policy ENV7 states that all developers will be expected to comply fully with the Council's Design Guidance on new residential developments.

***The proposal accords with the requirements of the design guidance.***

5.9 The applicant has been requested to confirm a contribution to the Leisure and Recreation fund under Policy TLR5 of the Adopted East Ayrshire Local Plan.

***The applicants have indicated that they would be willing to make a contribution to the TLR5 Fund at the requested level of 1% of construction costs.***

In conclusion it is considered that the proposal is in accordance with the provisions of the Development Plan.

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

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

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

### Representations

6.3 The representation received has been summarised in Section 4 of the Report and is not considered to be of such weight as to merit refusal of the application.

### Impact on the Amenity of the Area

6.4 The nature of the site is such that it is considered that the proposal can be accommodated as detailed with no detriment to the area. In fact the scheme allows for substantial planting to reinforce the edge of settlement boundary.

### Planning History

6.5 Outline planning permission (98/0216/OL) was approved on 30 August 2002 for a residential development on this site.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 In as much as the advice from the Roads Division is that there is inadequate access along Silverwood Road and Meadowside because of current extensive on-street car parking, it would be necessary for the developers to provide appropriate off-street parking for existing residents within public open space areas situated immediately adjacent to Silverwood Road and Meadowside. This would need to be in place prior to the commencement of development on site. In this respect the applicants have indicated that they are prepared to enter into a Legal Agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 committing themselves to the following:-

- (i) Securing the appropriate legal authority in respect of the utilisation of land for car parking.
- (ii) Securing the appropriate planning permission in respect of the use of land for car parking, and
- (iii) Implementing the approved car parking provision, all prior to the commencement of any development on site.

7.2 The applicant has also agreed to enter into a Section 75 Agreement with regard to a contribution in terms of Policy TLR5 and the separate provision of play equipment within the adjacent playing field. This separate contribution for play equipment should facilitate toddlers, juniors and teenagers' equipment to a standard and in a manner acceptable to the Council. Both these provisions shall form part of the Agreement.

## **8. CONCLUSIONS**

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the refusal of the application given the application of appropriate conditions and the applicants acceptance of a legal agreement as detailed in Section 7 above.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet and that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in paragraphs 7.1 and 7.2 of the report.**

### **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, on the basis of the principle of residential development, the application will require to be referred to the Development Services Committee as that would be a significant departure from Council policy.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

05 April 2006  
(CSI/MMM)

FV-KD

## LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning Permission 98/0216/OL.

Anyone wishing to inspect the above papers please contact Craig Iles, Senior Planning Officer, on 01563 576772.

***Implementation Officer: Dave Morris***

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0652/FL

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Site of Proposal: Ralstonyards Farm  
Off Silverwood Road & Meadowside  
Crookedholm  
By KILMARNOCK  
KA3 6HW

Nature of Proposal: Proposed Erection of 28 No. Dwellinghouses  
and Associated Roads and Groundworks

Name & Address of Applicant: McTaggart Construction Ltd  
Tod House  
Templand Road  
DALRY  
KA24 5EU

Name & Address of Agent: BSP Architects  
Ravenstone House  
4 Ravenstone Drive  
Giffnock  
GLASGOW  
G46 6AL

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DPOs Reference: CSI/MMM

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

1. Prior to any work commencing on site, details of a 6.0 m high fence along the southern boundary of the site, shall be submitted to and agreed in writing with the Planning Authority. The approved fence shall be erected in accordance with the agreed details prior to any work commencing on site and thereafter be retained and maintained in accordance with the agreed details.

REASON In the interests of residential amenity.

2. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban

Drainage System shall thereafter be installed on site prior to the occupation of the dwellinghouses.

REASON To ensure that adequate drainage is provided.

3. Before the commencement of the development on site, full details of the landscape buffer on the eastern and northern boundaries of the site, shall be submitted to and approved by the Planning Authority. Said boundary treatment shall be implemented not later than the next available planting season after the development has commenced to the satisfaction of the Planning Authority. The details to be submitted shall include the provision to be made for the future maintenance of the landscape area and the sustainable urban drainage facilities. Any planting removed without the consent of the Planning Authority or seriously damaged within ten years of the date of the consent shall be replaced by specimens of the same size and species.

REASON To ensure the provision and maintenance of an appropriate boundary to the settlement.

4. 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 by the Planning Authority before any development commences on the site. Thereafter, the approved details shall be implemented prior to the occupation of the associated dwellinghouse or the occupation of the last house, whichever is the sooner.

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

5. Notwithstanding the approved drawings, details and samples of all proposed external materials shall be submitted, in writing, to and approved by the Planning Authority prior to the commencement of the development, and thereafter implemented as approved.

REASON In the interests of visual amenity.

NOTES TO APPLICANT:-

1. The developer shall make early contact with 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 require 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.

**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.**