

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 1 FEBRUARY 2002**

**01/0201/OL: PROPOSED OUTLINE PLANNING PERMISSION FOR  
RESIDENTIAL DEVELOPMENT AT 3 DUNLOP ROAD, LUGTON  
BY MR G WOOD**

### **EXECUTIVE SUMMARY SHEET**

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

1.2 It is proposed in outline to form a residential area at the top of the elevated section. As the proposal is in outline there is no indication of number of units but, given the extent of the site, it would be possible to accommodate between 4 and 8 houses depending on house types. Both vehicular and pedestrian access would be achieved via the existing junction with the main road.

#### **2. RECOMMENDATION**

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

#### **3. CONCLUSIONS**

3.1 As indicated at paragraph 5.2 above, the application is considered to be contrary to the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at paragraph 6.1 above, there are material considerations relevant to this application and it is considered that these considerations add weight to the presumption in favour of the development plan. Principally among these considerations are the policy considerations of the EALP and the inability of the site to be provided with a vehicular/pedestrian access of a suitable standard.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will require to be referred to the Development Services Committee as such a decision would be a significant departure in terms of the principle of the EALP.

**Alan Neish  
Head of Planning and Building Control**

**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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### 01/0201/OL: PROPOSED OUTLINE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT AT 3 DUNLOP ROAD, LUGTON BY MR G WOOD

#### Report by Head of Planning and Building Control

## 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application which is to be considered by the Local Planning Committee under the scheme of delegation because it has been the subject of an objection and is recommended for refusal.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The site is an elevated area of land to the north of the Kilmarnock/Glasgow railway as it runs through Lugton Village. Historically the area appears to have been utilised by the Railway as there is some evidence of old platforms having been on site although they have since been demolished. Access to the site is achieved via a junction immediately to the north of the railway bridge in Lugton (and the turning at Burnside Cottages). Currently the site is in a degraded, ill kempt condition, although a road is maintained through it to the signal box further east from the site. Adjacent uses are primarily residential with the Burnside cottages to the north but considerably lower than the site.

2.2 **Proposed Development:** It is proposed in outline to form a residential area at the top of the elevated section. As the proposal is in outline there is no indication of number of units but, given the extent of the site, it would be possible to accommodate between 4 and 8 houses depending on house types. Both vehicular and pedestrian access would be achieved via the existing junction with the main road.

## 3. CONSULTATION AND ISSUES RAISED

3.1 East Ayrshire Council Roads Division have responded to the application by confirming that they have no objections to the proposed subject to compliance with a number of conditions as follows:

1. The sight lines at the junction with the A736 must be  $x=2.5$  metres and  $y=90$  metres. The adjacent property wall and the bridge abutment prevents this from being achieved. It may be possible to improve the existing sightlines to an acceptable standard by undertaking traffic calming works on the A735.
2. The application site should be extended to include the proposed access road.

3. The access road to the dwellings must be of a standard suitable for inclusion in the list of public roads. The present track is not suitable and will require reconstruction.

4. A suitable road would have to be 5.5 metres wide terminating in a turning head with a 2.0 metres wide footway on at least one side connected to the existing public footway on the A735

***The above matters are very significant and extend to areas not within the control of the applicant. However, these matters have been discussed with the applicant who considers that the Roads Division is not being reasonable in their demands.***

3.2 West of Scotland Water have confirmed that the proposal could be serviced by an existing public water main located adjacent to the sites location. Additionally they confirm that there are no known sewers to which a connection could be made.

***Noted.*** No investigations have been undertaken to date.

3.3 The Scottish Environment Protection Agency have advised that they have no objection to the principal of the development but confirmed that due to the lack of foul water drainage facilities the feasibility of soakaway arrangements for effluent disposal would require investigating.

***Noted. No investigations have been undertaken to date.***

3.4 The Coal Authority did not raise any ground stability issues which would be anticipated to impact on the proposal.

***Noted.***

3.5 Environmental Health and Waste Management Division have confirmed that they have no objection to the proposal.

***Noted.***

3.6 Dunlop and Lugton Community Council have lodged an objection to the proposal on the following grounds:

*The proposed site does not appear in the East Ayrshire Local Plan, the area is classed as countryside and therefore it is not available for building. The access to the site is restricted and Railtrack still enjoy an access for service purposes and maintenance.*

**Noted.** The matter of the area classed as countryside is a referral to the sites designation within the Development Plan. Due to its elevated situation on a long strip of former railway land not directly linked in visual or physical terms to the village of Lugton this area has been excluded from the defined settlement. The objection is considered to be significant and valid.

**Additionally, the application has been assessed by the Council's Roads Division who have confirmed a number of issues which have not been formally addressed by the applicant.**

3.7 Railtrack did not object to the planning application subject to their own safety provisions being met.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 In addition to the objection from the Community Council (see paragraph 3.6 above) four letters of objection have been submitted from residents of Lugton. A number of these objections relate specifically to the description of an application for 3 two-storey houses. The description was altered prior to the application being registered. The grounds of objection are as follows:-

- (i) *Due to the height of the site, the development of the site for housing would result in overlooking into existing houses at Burnside Cottages to the detriment of the amenity of these houses.*

***Noted. As the application is in outline, there is insufficient information available to assess this particular issue. The applicant has been requested to provide additional information such as levels through the site to assist in assessing this aspect, but to date has not submitted these details due to cost implications.***

- (ii) *Additional traffic serving houses to the rear of Burnside Cottages would disrupt the amenity of the area further.*

***Noted. Again this aspect could be assessed through the submission of additional details relating to the development.***

- (iii) *Additional housing in the area would lead to an increase in criminal activity.*

***As the proposal is in outline to establish the principle of residential in the site it is considered that this particular consideration is not material at this stage as there is no layout available.***

- (iv) *The access to the site is sub-standard and previously applications have been overturned for this reason.*

***Noted. The comments from the Council's Roads Division would corroborate the perceived access problems. The history of the site is detailed in paragraph below (para 6.5 below).***

- (v) *Developing this site would have a disruptive influence on the character of the village.*

**As stated above it is considered that it would be inappropriate for this area to be included within Lugton urban boundary as it is considered, due to its locational circumstances, would result in the perceived disruption.**

## **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 Stewarton Local Plan (1987). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policy 5.3.2 of the Stewarton Local Plan.

Policy 5.3.2 states "Housing Development in the countryside outside the wider envelope of encircling settlements shall not be allowed except in accordance with specific policies."

The site is outwith the settlement boundary of Lugton and no information has been submitted to justify the proposal against the relevant policies.

Accordingly, the application is considered to be contrary to the Adopted Plan and has been advertised appropriately.

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

6.1 The other material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications) (EALP), Consultation responses, letters of objection and planning history.

### **East Ayrshire Local Plan (Finalised Version with Modifications)**

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriated that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP should be considered a prime material consideration. The proposal is located outwith the settlement boundary of Lugton as defined in the EALP. The reason for its exclusion is that the site is located on former railway land, although this has become covered by natural

vegetation and it has a backcloth of mature trees. The site is elevated by some metres above the main part of the settlement of Lugton and is widely visible from the village. Because of the site's elevation and physical separation from the existing development in Lugton, there would be no coherent relationship between any development on the site and the village. Consequently, Policy RES13 applies.

### **RES13 confirms:-**

*The Council will only be supportive of residential development in a Rural Protection Area where it can be demonstrated that the houses are required for a full-time agricultural or forestry worker, or for an employee of a rural enterprise or tourism related activity, or as an essential or integral part of an authorised proposal required staff accommodation.*

***To satisfy this policy, the applicant will be required to supply evidence that the proposal would meet one of the above requirements.***

***This requirement has been expressly put to the applicant who has not provided information to demonstrate compliance with the above. Accordingly, the proposal is contrary to the provisions of this policy.***

## **CONSULTATION RESPONSES**

6.3 The consultation responses are as detailed in Section 3 of this report. It is considered that the comments from the Council's Roads Division and the Community Council are most significant in this instance, and add weight to the arguments against the proposal. In particular, the Community Council specifically raise the non-compliance with the Local Plan and the Roads Division confirm that, in their view, the proposal currently before the committee could not be provided with a safe vehicular/pedestrian access.

## **LETTERS OF OBJECTION**

6.4 The letters of objection submitted to date are considered to raise valid concerns that add weight to the presumption against the proposal.

### **Planning History**

6.5 The elevated area of former railway land in Lugton has been the subject of previous applications for residential development as follows:-

KL/W/OL/95/004A involved a larger site and proposed outline planning permission for 17 units and was refused in February 1995 for the following reasons:-

1. The proposal concerns development in the countryside which would constitute and unnecessary extension to Lugton, unrelated to the character of the existing settlement for which there are no circumstances to justify approval and is therefore contrary to the terms of NPPG3.

2. The proposal would constitute development in the countryside which is not justified by a clear shortfall of land supply, for which there is no specific locational need and which would have an adverse environmental impact and is therefore contrary to Policies CAT1A and RES2A of the Strathclyde Structure Plan.
3. The proposed development lies outwith the urban envelope of Lugton as defined in the Kilmarnock and Loudoun Finalised District Plan and would therefore not be in accordance with Policy HR1.
4. The proposed development would constitute an unwarranted visual intrusion in the countryside.
5. The proposal would be detrimental to road safety by virtue of inadequate visibility at the junction of the site with Dunlop Road.

Subsequent to that decision, a full application was submitted for 3 houses in the area immediately to the south as you enter the site from the main road. That application Ref No KL//W/FL95/004B, was refused in October 1995 for the reason that insufficient information had been submitted upon which to determine the application.

## **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 at paragraph 5.2 above, the application is considered to be contrary to the development plan. Therefore, given the terms of Section 25 and Section 37 (2) of the Town and Country (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at paragraph 6.1 above, there are material considerations relevant to this application and it is considered that these considerations add weight to the presumption in favour of the development plan. Principally among these considerations are the policy considerations of the EALP and the inability of the site to be provided with a vehicular/pedestrian access of a suitable standard.

## **9. RECOMMENDATION**

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

## **CONTRARY DECISION**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will require to be referred to the Development Services Committee as such a decision would be a significant departure in terms of the principle of the EALP.

**Alan Neish**  
**Head of Planning and Building Control**

IW/MLS  
23 January 2002

FV/AN

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### **BACKGROUND PAPERS**

1. Application Form/Plan
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Objection.
5. East Ayrshire Local Plan Finalised Version with Modifications.
6. Adopted Stewarton Local Plan.
7. Approved Strathclyde Structure Plan.
8. Approved Ayrshire Joint Structure Plan.

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0201/OL

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Site of Proposal:	3 Dunlop Road LUGTON
Nature of Proposal:	Proposed Outline Planning for Residential Development
Name & Address of Applicant:	Mr G Wood 24 Lochlibo Road LUGTON KA3 4DZ
Name & Address of Agent:	James W Mair 25 Woodside Avenue KILMARNOCK KA1 1TU

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DPOs Reference: IW/MLS

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

1. The proposed development is contrary to Policy 5.3.2 of the Adopted Stewarton Plan in that it comprises new housing development not justified as being required on a permanent basis for an agricultural or forestry worker.
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 RES14 of the East Ayrshire Local Plan (Finalised Version with Modifications).
3. The proposed development would constitute an unwarranted visual intrusion in the countryside and would therefore be detrimental to the visual amenity of the area.
4. The proposed development would be detrimental to road safety by reason of inadequate sightlines.

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VIEWING PLEASE CONTACT (01563) 576790.**

**AGENDA**