

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 17 FEBRUARY 2006**

**05/0942/FL: PROPOSED ERECTION OF DWELLINGHOUSE ON LAND  
AT CEMETERY ROAD, DARVEL  
BY MR ALEX PATERSON**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the erection of a two storey split-level dwellinghouse. The house comprises a two storey element adjacent to Cemetery Road, with a single storey on the higher ground to the west. On the ground floor level next to the road, it contains a double garage, entrance hall, utility room and guest bedroom/study with en-suite facilities. The upper floor plan contains a kitchen/family room, sitting room, dining room, bathroom and three bedrooms, the master bedroom housing a dressing room and en-suite shower. The property would be finished in a mix of render and brick with a concrete tile roof.

**2. RECOMMENDATION**

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

**3. CONCLUSIONS**

3.1 As indicated in the report the application is considered to be contrary to the terms of the Development Plan. Therefore it should be refused 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 approval of the application.

## **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 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**

**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, since this decision route has been agreed by the Head of Planning, Development and Building Standards in consultation with the Chair of the Committee following a request from a Committee Member.

### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site comprises an area of 1.48 hectares of ground located to the north of the property known as the Sheddens on Cemetery Road, Darvel. The eastern boundary of the application site comprises the remains of a railway bridge, retaining the remainder of the site lying to the east of Cemetery Road, which clearly was part of the former railway line. The site rises up steeply from Cemetery Road and is at a significantly higher level than the neighbouring property at the Sheddens. To the north, the site rises steeply and is covered with sparse vegetation. Part of the western boundary of the site abuts the rear garden of 19 George Young Drive, with the remainder abutting the remains of the former railway line. There is a rough footpath running up from Cemetery Road to the rear of No. 19 George Young Road, which forms part of the Irvine Valley Paths Network, which is known to be a Right of Way.

2.2 **Proposed Development:** Full planning permission is sought for the erection of a two storey split-level dwellinghouse. The house comprises a two storey element adjacent to Cemetery Road, with a single storey on the higher ground to the west. On the ground floor level next to the road, it contains a double garage, entrance hall, utility room and guest bedroom/study with en-suite facilities. The upper floor plan contains a kitchen/family room, sitting room, dining room, bathroom and three bedrooms, the master bedroom housing a dressing room and en-suite shower. The property would be finished in a mix of render and brick with a concrete tile roof.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have raised no objections subject to the following matters being covered by conditions:-

- (i) The existing 30-mph speed limit zone on Cemetery Road is to be extended beyond the proposed residential access to allow a reduced sightline standard to be acceptable.
- (ii) Traffic calming to be introduced from the new 30 mph limit to the junction with the A71 to permit a sightline standard of  $x = 2.5$  metres and  $y = 35$  metres to be acceptable for the new residential access.
- (iii) Pedestrian access to the site should be achieved by the formation of a 2.0 metre wide footway from the A71 to the development site or by the formation of a 2.0 metre wide service strip over the frontage of the development and the introduction of traffic calming on Cemetery Road to reduce traffic speeds and permit the carriageway to be shared with pedestrians.
- (iv) All traffic calming and re-location of the 30 mph speed limit to be completed prior to commencement of any building work on site.

***The requirements of the Roads and Transportation Division relate to roads issues outwith the application site and the applicant's control. Therefore, the application as it stands cannot resolve these matters and the Roads Division would recommend refusal of the application.***

3.2 Scottish Water formally objects to this application. This objection can be deemed to be withdrawn if the Council, as Planning Authority, attaches the following conditions to any consent which it grants:-

No development shall commence until evidence is exhibited to this Planning Authority that an agreement has been reached by the applicant with Scottish Water for the provision of a drainage and/or water scheme to serve the development.

***The applicant has failed to address the concerns of Scottish Water, therefore their objection to the proposal remains.***

3.3 Darvel Community Council had not replied to the consultation at the time of writing this report.

***Noted.***

#### 4. REPRESENTATIONS

4.1 No objections have been received from any third parties in respect of this proposal.

#### 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 Policies ADS3, ADS5 and G5 are applicable.

5.3 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.

5.4 Policy ADS5 states that all three Ayrshire Councils shall adhere to the guiding principle of protecting the countryside for its own sake.

***The proposal is contrary to Policies ADS3 and ADS5, as it will detract from the openness and appearance of the countryside at this location and extends outwith the settlement boundary as defined in the adopted local plan.***

5.5 Policy G5 states that development proposals outwith settlements in the Rural Protection Area 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: or
- D provides for the operational needs of agriculture and forestry.

***The proposed house does not meet any of the above criteria and the information submitted is insufficient to justify its location within the Rural Protection Area. It is therefore contrary to Policy G5.***

## East Ayrshire Local Plan

5.6 The proposed development can either be defined as an extension to the settlement boundary or as residential development in the countryside. Accordingly Policies RES2, RES13 and RES17 are relevant to the assessment of the application.

5.7 Policy RES2 states that, with the exception of dwellings covered by Policies RES13 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 all 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.

***There is no demonstrated shortfall of effective housing land within the East Ayrshire Housing Market Area and the applicant has failed to satisfy the requirements of the Council's Roads and Transportation Division and Scottish Water as detailed in Section 3. It is also considered that the house would have a significant impact on the visual amenity of the surrounding area, therefore the proposal is contrary to Policy RES2.***

5.8 Policy RES13 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 four stated purposes:

- (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.

***The proposed house is not required for any of the above purposes.***

5.9 Policy RES17 states that residential development in the countryside will not be permitted in nine stated circumstances. Four of these circumstances are pertinent to the application, these being:

- (iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries;

***It is considered that construction of a house at this location would very much constitute an inappropriate extension of development into the countryside, being visually prominent and obtrusive.***

- (vi) where the development would, in itself, constitute or add to sporadic or ribboning of development along public or private roads in rural locations.

***It is considered that approval would lead to unacceptable ribboning development along the public road potentially leading to an expansion of the settlement towards the existing cemetery.***

- (viii) where, in the opinion of the Council, the development would be unduly visually prominent, break the skyline when viewed from a public road, adversely affect the amenity and appearance of remote areas, wild areas or particularly picturesque locations, or diminish the natural or designed landscape quality and character of the area;

***It is considered that the site is located in a prominent location, adjacent to the public road through Darvel and will thereby disrupt the rural character of the area and will be visually intrusive within the landscape.***

- (ix) where the development would not meet the service requirements of the Council as Roads Authority or the standards of all appropriate statutory undertakers and other service providers.

***As detailed in section 3 the applicants have failed to meet the necessary service requirements of the Council as Roads Authority and Scottish Water.***

5.10 In conclusion it is considered that the proposal is contrary to the provisions of both the structure and local plans.

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

6.1 The principal material considerations relevant to the determination of the

application are the consultation responses, the impact on the amenity of the area and information submitted in support of the application by the applicant .

6.2 The applicant has failed to satisfactorily demonstrate that the comments of the Council's Roads and Transportation Division and Scottish Water can be accommodated in terms of providing a safe pedestrian and vehicular access to the site or the provision of satisfactory drainage and water to the development. therefore, these matters remain unresolved.

#### Impact on the Amenity of the Area

6.3 It is considered that the proposal represents an inappropriate and unjustified form of development which will be visually intrusive within the countryside and will have a resultant significant detrimental effect on the amenity and character of the area and would set an undesirable precedent for future development in the countryside.

#### Supporting Statement

6.4 The applicant's agents submitted a supporting statement giving details of the site location, details of the size, style and design of house proposed and its relationship to the neighbouring property at the Sheddens. With regard to the site, they advise that the existing stone railway bridge abutment, next to the road, will be removed with the adjoining site levels significantly lowered to facilitate vehicular/pedestrian access directly from the existing roadway.

6.5 They also state that there is an existing Right-of-Way running through the site and that this will be retained along the northern boundary of the site.

6.6 In terms of the planning policy framework for the proposal, they consider that it should be assessed against Policy G6 in the Ayrshire Joint Structure Plan and Policies RES 2, 13, 17(iv) and SD 6 in the Adopted East Ayrshire Local Plan.

6.7 In terms of their justification for the development, they accept that there are policies which presume against it, however as the site is part of a disused railway line and in poor condition, it is brownfield and accords with Policy SD 6.

6.8 The site is untidy and unkempt, and approval would improve the visual amenity of the area and accord with the Council's aims in terms of sustainability. Approval would also establish a more defensible edge to Darvel than exists at present.

6.9 The applicant is a local builder committed to the area and the house would be consistent with the Council's aspirations for high amenity housing.

6.10 To conclude, they consider that sufficient justification has been made to merit granting of this house as an acceptable minor extension to the settlement. The house can be readily associated with the adjoining residential development in this part of Darvel and although contrary to strict policy interpretation in the Development Plan and given the brownfield nature of the site, it should be granted planning permission.

***Significant changes in level and major ground works are proposed, for which the applicant has failed to give any retaining or other details.***

***The applicant's accept that the site is crossed by a Right-of-Way and that this will be retained along the northern boundary. Following an on site inspection, it was noted that the existing track was more centrally situated through the site. Given the levels of the ground and the extent of vegetation along the northern boundary, it is considered unlikely that an acceptable route could be established. The re-positioned Right-of-Way, would require to be the subject of a Right-of-Way Diversion Order, to be promoted and approved, to agree the new route through the site prior to determination of this application. It would not be legitimate to impose a planning condition to cover this matter.***

***The policy issues are covered in Section 5 of this report and the development does not accord with these policies. Policy G6 of the Structure Plan does not apply to this site. The applicant is placing too great an emphasis on their assertion that the site is visually untidy and constitutes a 'brownfield' site to justify their case.***

***The site has clearly been used in the past as a railway line, however, it did not contain any buildings and would have been simply grass and shrubs with a railway line running through it. The development would have been part of the landscape, in fact, railway lines, roads, and rivers are often used to define settlements as they present clear defensible edges to settlements. In this case, the raised and distinctive nature of this part of the former railway line, provides a clear, delineation between town and country, contrary to the applicant's view. Therefore it is considered that for the reasons stated earlier, that the proposal is contrary to the Development Plan and that the applicant's reliance on the brownfield justification is overstated and misleading and the proposal should be refused.***

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

7.1 There are no financial implications for the Council resulting from the refusal of this application.

7.2 The site contains the route of the Irvine Valley Paths Network through Darvel which is an accepted Right-of-Way and approval of the development may have legal implications if this route were lost.

## **8. CONCLUSIONS**

8.1 As indicated in the report the application is considered to be contrary to the terms of the Development Plan. Therefore it should be refused 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 approval of the application.

## **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 that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, 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**

08 February 2006  
(WS/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above papers please contact William Stewart, Principal Planning Officer, on 01563 578165.

***Implementation Officer: Dave Morris***

## EAST AYRSHIRE COUNCIL

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

05/0942/FL

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Site of Proposal:	Land at Cemetery Road DARVEL
Nature of Proposal:	Proposed Erection of Dwellinghouse
Name & Address of Applicant:	Mr Alex Paterson East Heads Steading NEWMILNS KA16 9LG
Name & Address of Agent:	Lawrence McPherson Associates The Atrium 6 New Road AYR KA8 8EX

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DPOs Reference: WS/MMM

The above FULL application should be REFUSED for the following reasons:-

1. The proposed development would constitute the erection of a new dwellinghouse in the countryside without a demonstrated site specific locational need or any other appropriate justification and therefore would not be in accordance with Policies ADS 3, ADS 5 and G 5 of the Approved Joint Ayrshire Structure Plan.
2. The proposed development would constitute the erection of a new dwelling in the countryside without a demonstrated, site specific justification. Furthermore, the proposal would constitute an inappropriate extension of development into the countryside and would set an undesirable precedent for such development and thereby be contrary to Policies RES 2, RES 13 and RES 17.
3. The proposed development would constitute unwarranted visual intrusion into the open countryside.

4. The applicant has failed to satisfy the concerns of the Council's Roads and Transportation Division and Scottish Water contrary to the requirements of Policy RES 17 (ix) in the Adopted East Ayrshire Local Plan.
5. The proposal will adversely affect the route of the public right-of-way passing through the site.