

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007

**04/0482/FL: PROPOSED CHANGE OF USE FROM BUILDERS YARD TO
SITE FOR 9 TWO STOREY HOUSES AT CEMETERY ROAD, GALSTON
BY G & D CUNNINGHAM LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal is now for the erection of nine, two storey detached dwellinghouses, dropped from the original submission of ten. The applicant proposes to provide a central access road leading to each property from Cemetery Road, with a relatively large Sustainable Urban Drainage System being located on the southern side of the site adjacent to the turning head.

1.2 The houses will be finished in a white dry dash render, with a brown facing brick basecourse and grey concrete tiles on the roofs.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.5 and 7.1 of the report.

3. CONCLUSIONS

3.1 As stated 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 indicated in Section 6 of the report there are material considerations relevant to the application however, it is considered that these are not of such significant weight as to merit refusal of the application.

3.3 As stated previous the proposal is not considered to be at risk to flooding from the nearby Burn Anne and the site is considered acceptable for residential use. The revised layout for 9 houses, is considered to present an acceptable scheme, with in excess of the minimum garden ground requirements and in accordance with the wider Council's Design Guidance.

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 the application will not require to be referred to the Development Services Committee because such a decision would not represent 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, as it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises the level yard area and associated buildings presently used by G & D Cunningham. To the north, on ground rising up from the site, is Galston Primary School. To the south, the site is separated from Grant Bros (Meat Cannery) by an approximately 5.0 metre wide access lane leading from Cemetery Road to St Mary's Holm Playing Fields, the playing fields also form the western boundary to the application site. On the opposite side of Cemetery Road, to the east of the site is a narrow area of open space leading onto the Burn Anne and beyond this to the residential properties in Garden Street.

2.2 **Proposed Development:** The proposal is now for the erection of nine, two storey detached dwellinghouses, dropped from the original submission of ten. The applicant proposes to provide a central access road leading to each property from Cemetery Road, with a relatively large Sustainable Urban Drainage System being located on the southern side of the site adjacent to the turning head.

2.3 The houses will be finished in a white dry dash render, with a brown facing brick basecourse and grey concrete tiles on the roofs.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division originally recommended refusal for the 10 house proposal. They were concerned that a culverted watercourse ran through the development site and should be shown on the new layout plan. Should the existing culvert be located within the new access road limits it will require to be checked for structural adequacy. If the culvert is not within the road limits a means of access to the culvert must be established for maintenance.

The applicants now propose to divert the culvert down the centre of the new access road and their engineers have been in discussions with the Roads Division concerning the adequacy of this solution.

3.2 The flood risk to the site from the adjacent watercourse must be assessed, particularly the affect of the culvert mouth upstream being blocked and the flow path that would result.

The applicants have submitted a Flood Risk Assessment which advises that the site is not considered to be part of the functional floodplain of the Burn Anne and its redevelopment for residential use will have no material adverse impact on the flood risk to other properties. Roads have also advised that they have no objections in principle to the proposed culvert diversion.

3.3 There is no indication of the SUDS solution for the development.

The applicants have now revised the original proposal, dropping one house, to provide an on-site SUDS solution.

3.4 The parking provision for a four bedroom development site is 3 spaces per dwelling within the curtilage and a minimum of 2 visitor spaces.

The amended layout has sufficient space to accommodate both the resident and visitor parking requirements.

3.5 A 2.0m wide footway must be formed on Cemetery Road over the frontage of the new development.

The amended layout indicates a footway across the frontage of the site and a planning condition can be imposed to ensure it is provided.

3.6 East Ayrshire Council Roads and Transportation Division, Flooding Section advise that the proposed culvert diversion is only agreed in principle and any works required should not affect the Flood Prevention measures being undertaken by the Council or incur any additional costs to the Council. All costs for such a diversion must be met by the applicant.

An advisory note can be attached to any planning consent advising the applicant to contact the Roads Division prior to any work commencing on site.

3.7 East Ayrshire Council, Department of Neighbourhood Services request some form of financial contribution to offset the failure to provide open space.

The original site was for 10 units, but the reduced numbers do not require the provision of amenity open space. However, the

applicant has indicated a willingness to provide a 1% contribution under the requirements of Policy TLR5.

3.8 Scottish Power advise that they have no objections to the proposal.

Noted.

3.9 Scotland Gas Networks advise that the developer should note the presence of low/medium/intermediate pressure gas mains in the proximity of the site and that no mechanical excavations shall take place within the relevant operation distances to each type of pipe.

An advisory note can be attached to any consent advising the applicant to contact Scotland Gas Networks prior to any work commencing on site.

3.10 Scottish Water object to the application whereby the proposed development drains to the public sewerage system. This is 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.

The applicant advises that this matter has now been resolved following discussions with Scottish Water.

3.11 Galston Community Council have not responded in respect of the proposal.

Noted.

3.12 East Ayrshire Council Environmental Health Division advise that there are underground diesel tanks present at the location which would require to be removed prior to any development taking place. In addition, the potential for soil contamination (fuel, oils etc) from the site's previous operational uses cannot be ruled out.

The risk of exposure from contaminants in the soil to humans and the wider environment is a material consideration and would have to be assessed prior to any works commencing, in line with the requirements of PAN 33, "Development of Contaminated Land".

In order to assess the risk of exposure from potential contaminants to key receptors, a full site investigation is required (BS10/75) and a remedial strategy should be formulated to address any land contamination prior to work commencing. In terms of noise, it is not considered likely to be an issue, however the construction hours should be restricted.

The matters raised by Environmental Health can be covered through the imposition of planning conditions and notes on any consent.

4. REPRESENTATIONS

4.1 The proposal was advertised in the Kilmarnock Standard. Two objections have been received to the proposal, including the objection from Scottish Water.

4.2 Concern has been expressed by the operator of the neighbouring factory unit, that their 24 hour manufacturing process, shift patterns, discharges of odours and steam, and the frequent heavy delivery vehicles calling to the site, could all have a detrimental effect on the amenity and ambience of the proposed houses. They consider it unreasonable to expect anyone to live next to these operations.

The Council's Environmental Health Division have requested that a Noise Assessment be undertaken and, following this, they are of the view that it is unlikely that any complaint will be forthcoming resulting from the activities of the Grants Factory. They point out that the factory has been at this location for a long number of years without giving rise to previous complaints and unless they significantly changed their working patterns, they would be unlikely to pursue any complaint. They do suggest that the applicant make any prospective purchaser aware of this situation.

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).

East Ayrshire Local Plan

5.2 Policy IND8 states that proposals for alternative uses of land or premises currently or formally used for industrial purposes shall be considered acceptable subject to a set of three criteria being met, as follows:

- (i) the proposed use not being detrimental to surrounding established uses;

The proposed residential use would not be detrimental to surrounding established uses. As stated earlier, the Council's Environmental Health Division consider that it is unlikely that any complaints would be forthcoming resulting from the surrounding activities.

- (ii) the proposal meeting with the requirement of all other relevant Local Plan Policies; and

The proposal requires to meet the provisions of Policy RES4 as set out below.

- (iii) the existence of alternative industrial or business land or premises with potential for future employment use within the settlement concerned.

It is considered that there is sufficient alternative industrial and business land for future employment use within Galston.

5.3 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against the following criteria:

- (i) impact on the surrounding natural and built environment and adjacent uses;

Housing development would not in itself impact detrimentally on the surrounding natural and built environment. However, the site is located immediately adjacent to a factory that emits noise and fumes. The Council's Environmental Health Division consider it unlikely these activities will give rise to any significant complaints.

- (ii) transportation and infrastructure implications;

This is subject to satisfactory responses from the Roads Division and other consultees.

- (iii) compatibility with surrounding densities and housing types; and

There are no housing area in the immediate vicinity of the site.

- (iv) compliance with the Council's Development Promotion and Design Guidance.

The revised layout indicates that each house has in excess of the minimum 100m² of private garden ground, all generally located to the rear of the houses. The proposed layout is considered to be acceptable and in accordance with the Council's Design Guidance.

5.4 Policy RES22 requires developers to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan.

The proposal exceeds the minimum requirements of private open space and accords with the Council's Design Guidance.

5.5 Policy TLR5 requests that all potential developers of residential sites comprising four or more houses enter into a Section 75 Agreement with the Planning Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the development relates.

The applicants have indicated that they are willing to make a contribution to the TLR5 Fund.

5.6 Policy ENV15 requires that in relation to land that is known to have flooded in the past, a precautionary approach shall be adopted and appropriate flood prevention measures should be incorporated into the design of the proposal.

The Council's 'flooding' engineers have been consulted and do not object to the proposal and have intimated agreement in principal to the diversion of the culvert.

5.7 Policy ENV18 addresses the development of land that is known or suspected to be contaminated. The Council's Environmental Health Division have been consulted.

Consistent with the recommendations of the Environmental Health Division, the issue of contamination and any necessary remediation can be addressed by a condition requiring a full site investigation prior to commencement of development.

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 representation and the impact on the amenity of the surrounding area.

Consultation Responses

6.2 The consultation responses are detailed in section 3 of the report and do not indicate that the application should be refused.

Representation

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 and Amenity of the Area

6.4 The site lies within the settlement boundary of Galston, close to the existing primary school and housing. It is considered that the redevelopment of this area for housing will significantly enhance the appearance and character of the surrounding area.

Scottish Planning Policy (SPP) 7 “Planning and Flooding”

6.5 SPP7 indicates that flooding is a material planning consideration and that new development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. A Flood Risk Assessment has been submitted by the applicants which advises that the site is not considered to be part of the functional floodplain of the Burn Anne and its redevelopment for housing is acceptable.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 The applicant's agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR5, will require a Formal Legal Agreement to be entered into between the Council and the applicant.

8. CONCLUSIONS

8.1 As stated 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 indicated in Section 6 of the report there are material considerations relevant to the application however, it is considered that these are not of such significant weight as to merit refusal of the application.

8.3 As stated previous the proposal is not considered to be at risk to flooding from the nearby Burn Anne and the site is considered acceptable for residential use. The revised layout for 9 houses, is considered to present an acceptable scheme, with in excess of the minimum garden ground requirements and in accordance with the wider Council's Design Guidance.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet but that the issuing of the planning decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.5 and 7.1 of the report.

CONTRARY DECISION NOTICE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee because such a decision would not represent a significant departure from Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

08 February 2007
(WS/RH/SA)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans
2. Statutory Notices/Certificates.
3. Consultation Responses.
4. Letters of Objection.
5. Adopted East Ayrshire Local Plan (2003).
6. PAN 33 "Development of Contaminated Land"
7. SPP7 Planning and Flooding

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

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Cemetery Road
GALSTON KA4 8HZ

Nature of Proposal: Proposed Change of Use from Builders
Yard to Site for Erection of 10 No. 2 Storey
Houses

Name & Address of Applicant: G & D Cunningham Ltd
Cemetery Road
GALSTON KA4 8HZ

Name & Address of Agent: Fleming Muir Architects
20 St Quivox Road
PRESTWICK KA9 1LJ

DPOs Reference: WS /RH/SA

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

(1) No development shall begin on site (with the exception of site investigative work), until a comprehensive contaminated land investigation has been submitted to and approved in writing by the Planning Authority.

The investigation shall be conducted in line with BS 10175:2001 Code of Practice for "*The investigation of potentially contaminated sites*" and will contain details of proposals to deal with contamination (if present) to include:

- (i) the nature, extent and type (s) of contamination on the site;
- (ii) the site specific risk assessment of all relevant pollutant linkages;
- (iii) remedial measures to treat/remove contamination to ensure the site is fit for the use proposed;
- (iv) Measures to deal with unsuspected contaminated discovered during construction works

REASON To ensure potential risks arising from previous site uses have been fully assessed.

(2) Further to Condition 1 above, and prior to any further site development, the developer shall submit a report, confirming that the remedial work have been carried out in accordance with the remedial plan.

REASON To provide verification that remediation of the site has been carried out in accordance with the remediation plan and to the Authority's satisfaction.

(3) Prior to any works commencing on site the existing culvert running through the site shall be diverted under the proposed access road and linked into the existing network in St. Mary's Holm Playing Fields and the adjoining Cemetery Road, all at the applicant's expense and to the satisfaction of the Planning Authority.

REASON To maintain a satisfactory and effective drainage solution in the area.

(4) Details of the 2.0m wide footpath fronting Cemetery Road shall be submitted to and agreed in writing by the Planning Authority, and thereafter the footpath shall be completed prior to the occupation of any of the houses hereby approved.

REASON In the interests of road safety.

(5) The internal access road, turning head and parking bays shall be competed to an adoptable standard prior to the occupation of the last four houses on site.

REASON In the interests of road safety and the amenity of the surrounding area.

(6) Details of the boundary treatment along the southern boundary of the site, indicating whether a wall or fence is proposed, and including associated tree planting, shall be submitted to and agreed in writing by the Planning Authority prior to any work commencing on site. Thereafter the approved scheme shall be implemented prior to the occupation of the last house.

REASON In the interests of the amenity of the surrounding area.

(7) 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 any house.

REASON To ensure that adequate drainage is provided.

(8) External construction work and deliveries to the site shall only take place between the hours of 08.00 a.m. to 6.00 p.m. Monday to Friday, 08.00 a.m. to 1.00 p.m. on a Saturday and at no time on a Sunday.

REASON In the interests of the amenity of the surrounding area.

NOTES

1. The developer should contact Scotland Gas Networks to arrange a site meeting to ascertain the location of sensitive plant in the area.
2. The developer should contact the Council's Roads and Transportation Division, prior to commencing any works on site to discuss the diversion works for the culvert, the formation and adoption of the public road and footpath, and any necessary permits or consents required.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
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PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**