

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 18 JUNE 2004

**04/0394/FL: ERECTION OF FIVE HOUSES AND FORMATION OF NEW ROAD
AND ERECTION OF GARAGES
AT CUTSBURN ROAD, STEWARTON
BY MESSRS CURRIE AND SIMPSON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to construct five detached houses in the site. These houses will be served by a short cul-de-sac access from Cutsburn Road. This access will be served by a new roundabout proposed on Cutsburn Road. Two villas will face the main Cutsburn Road and the other three houses will be sited to the rear.

1.2 The houses are substantial and are detailed in a mixture of designs, four being villas and one being of one and a half storey construction.

1.3 This application represents an amendment from an earlier application which involved a total of seven houses on the same site. That application was withdrawn after discussions with this Division and the current application submitted.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with matters identified in Section 8.3 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 consideration indicate otherwise.

3.2 As indicated in Section 6 of the report there are material considerations relevant to this application however it is not considered that these suggest that the application should not be approved. Indeed the ability to accommodate the five houses proposed whilst meeting the terms of the detailed policy requirements as explored in section 5 above demonstrates that the numbers of housing on the entire site at Cutsburn Road can be supported notwithstanding the allocation identified in the Local Plan. Additionally the proposal can be accepted as having no significant detrimental impact on the amenity of the area or adjacent residents.

3.3 The Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 should cover the following elements:

- (a) The provision of a footway to the north of the site;
- (b) The provision of a landscaped area to the south of the site extending to Cutstraw Road; and
- (c) The contribution of funds under Policy TLR5.

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Building Standards, and should that decision be founded on the principle of residential development, then the application will require to be referred to the Development Services Committee because such a decision would represent a substantial departure from the 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 an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is an area of unkempt, ill-maintained land to the south-east of Cutsburn Road Stewarton. It is approximately half an hectare in area and extends in a southerly direction from Cutsburn Road towards Cutstraw Road which sits at a higher level. The site rises by approximately 6 metres across this distance.

2.2 The site is bounded to the west by land of a similar character which was recently the subject of an application for a total of seven houses. That application was considered by the Northern Area Local Planning Committee on 23 January 2004. It was agreed to approve that application subject to the conclusion of an Agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 to secure the formation of a new footway to the north of the site along the eastern side of Cutsburn Road. That application has not been issued due to the non completion of the Agreement. To the east the site is bounded by agricultural land. Across Cutsburn Road lies a new housing development which is separated from the application site by a wide landscaped verge.

2.3 **Proposed Development:** It is proposed to construct five detached houses in the site. These houses will be served by a short cul-de-sac access from Cutsburn Road. This access will be served by a new roundabout proposed

on Cutsburn Road. Two villas will face the main Cutsburn Road and the other three houses will be sited to the rear.

2.4 The houses are substantial and are detailed in a mixture of designs, four being villas and one being of one and a half storey construction.

2.5 This application represents an amendment from an earlier application which involved a total of seven houses on the same site. That application was withdrawn after discussions with this Division and the current application submitted.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Council's Roads and Transportation Division have confirmed their position relative to the application. They advise that the proposed internal arrangements of garages cannot in their view be adequately accommodated.

This aspect has been explored with the applicants agent and it is considered that their removal will allow this concern to be addressed This aspect can be addressed by means of a condition if the Committee are of a mind to approve the application.

3.2 Additionally the Roads Division have confirmed a requirement similar to that for the adjacent application in connection with the provision of a public footway to the north of the site.

As previously indicated this aspect can be secured by means of a Section 75 Agreement.

3.3 Scottish Environment Protection Agency have advised that they have no objection to the application on the grounds that the proposal is connected to the public sewer.

Additionally they have confirmed that the surface water from the development will be treated by means of a SUDS system.

This aspect can be secured by means of a condition if the Committee are of a mind to approve the application.

3.4 Scottish Water have advised that they have no objection to the application. They have noted that there is apparatus within the site that may be affected by the proposal and that the developer should contact their office to discuss the matter.

They have confirmed that there is a public sewerage system available for connection and that the applicant should consider the implementation of SUDS system within the overall drainage system for the proposal.

The above comments were offered on the basis that there is no guarantee that a connection to the public sewer would be forthcoming.

The above matters are noted and can be addressed by means of a condition and a note attached to the planning approval if the Committee are of a mind to approve the application.

3.5 The Council's Outdoor Amenities Section has confirmed that there is a hedge and trees of some merit along the eastern boundary of the site and measures should be put in place to protect them.

They have recommended separation distances from these elements which again can be attached by means of a condition if the Committee are of a mind to approve the application. It is considered appropriate to secure where possible the retention of existing boundary treatments particularly where the site abuts the settlement boundary of a community.

3.6 The Coal Authority have confirmed that they do not anticipate any ground stability issues to impact on the ability of the site to accommodate the development.

Noted.

3.7 Stewarton and District Community Council have confirmed that they have no comments.

Noted.

4. REPRESENTATIONS

4.1 One letter of objection has been submitted by a resident of the housing development across Cutsburn Road from the application site.

The grounds of objection relate to the increase in total numbers of housing now proposed on the larger site as identified in the Local Plan. Currently it is identified for 10 units.

This aspect has been addressed below in the Development Plan section and it has been determined that on the basis of the submission that the five units proposed can be accommodated. The

increase in numbers above that allocated figure is regarded as being capable of being accommodated.

In total this would result in 12 units in a site which is identified for 10 in the Adopted Local Plan.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that applications should 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.

5.2 The nature of the application is such that the application has been assessed against the terms the Local Plan.

The relevant policies are RES1, RES 22, Policy ENV7 and TLR5.

5.3 The site is part of a larger site identified as a development opportunity site therefore the principle of the application is acceptable in respect of Policy RES1. The Local Plan provides that an Agreement will be required to ensure that only the lower part of the larger housing site be developed for housing. In this instance the upper part is within the applicant's ownership but outwith the application site. The Agreement will also require arrangements to be made for trees to be planted and maintained in the upper part of the site, in order to provide an appropriate boundary to the settlement of Stewarton in this locality. This acceptability is subject to more detailed considerations as defined by the other policies identified above.

The amended application has been assessed against the terms of these policies taking on board the comments from consultees and it has been concluded that the housing is acceptable. The houses meet the Council's requirements (under RES22) in respect of private amenity space, subject to the deletion by condition of the detached garages detailed to serve plots 1 and 2. The proposal is not considered to represent over development of the site.

The application is therefore considered to accord with terms of the Development Plan and should be approved unless material considerations indicate otherwise.

5.4 Additionally Policy TLR 5 states that the Council will request all potential developers of residential sites comprising four or more houses, to enter into a Section 75 Agreement with the Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the

development relates. Contributions will be at a level to be agreed by the Council, based on the expected number of houses and the level of need in a particular area for particular facilities.

The applicant has been requested to enter into a Section 75 Agreement in this respect and has stated a willingness to provide a contribution.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The material considerations relevant to the determination of this application are the consultation responses, the letter of objection and the impact on the amenity of the area

6.2 The consultation responses and the submitted letter of objection have been assessed and are not considered to raise issues of sufficient weight to justify the refusal of the application in this case.

6.3 The aspect of amenity of the area has been assessed. Again whilst the details of the application are such that the proposed access arrangement results in a form of development that differs from that approved to the south it is considered on balance that it can be supported with no detrimental impact on the amenity of the area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are legal implications for the Council in the determination of this application through the requirement for the Section 75 Agreement under the Town and Country Planning Act 1997 as discussed in 8.3 below.

7.2 There are no financial implications for the Council.

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 consideration indicate otherwise.

8.2 As indicated in Section 6 of the report there are material consideration relevant to the this application however it is not considered that these suggest that the application should not be approved. Indeed the ability to accommodate the five houses proposed whilst meeting the terms of the detailed policy requirements as explored in section 5 above demonstrates that the numbers of units on the entire site at Cutsburn Road can be supported notwithstanding the

allocation identified in the Local Plan. Additionally the proposal can be accepted as having no significant detrimental impact on the amenity of the area or adjacent residents.

8.3 The Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 should cover the following elements:

- (a) The provision of a footway to the north of the site;
- (b) The provision of a landscaped area to the south of the site extending to Cutstraw Road; and
- (c) The contribution of funds under Policy TLR5.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with the applicants dealing with matters identified in Section 8.3 of the report.

CONTRARY DECISION NOTE

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning and Building Standards, and should that decision be founded on the principle of residential development, then the application will require to be referred to the Development Services Committee because such a decision would represent a substantial departure from the Council policy.

Alan Neish
Head of Planning, Development and Building Standards

10 June 2004
(IW/MMM/FGD)

FV/DVM

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LIST OF BACKGROUND PAPERS

1. Application form and Plans.
2. Statutory Notices/Certificates.
3. Consultations.
4. Representations.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. East Ayrshire Council Application Ref Nos: 03/0994/FL, 03/1123/FL..

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

040394FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0394/FL

Site of Proposal:	Cutsburn Road STEWARTON
Nature of Proposal:	Proposed Erection of 5 Houses and Formation of New Road and Erection of Garages
Name & Address of Applicant:	Messrs Currie & Simpson Per 32 Cairn View GALSTON KA4 8LY
Name & Address of Agent:	Robert G Lang Chartered Architect 25 Bellevue Crescent AYR KA7 2DP

DPOs Reference: IW/MMM

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

1. The proposed development shall be carried out in accordance with the application form received on 15 April 2004 and the amended site plans received by the Planning Authority on 14 May 2004.

REASON To ensure that development is carried out in accordance with the approved details.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any order revoking and re-enacting that order, permitted development Classes 1 and 3 of Schedule 1 of the said Order are hereby removed in relation to the application site.

REASON To enable the Planning Authority to retain control over future development on the site in the interests of residential amenity.

3. A sample of the brick proposed in the front boundary wall along Cutsburn Road shall be submitted to, and approved by, the Council as Planning Authority prior to the commencement of works on site. This wall shall be constructed in the position shown on the plan prior to the occupation of any of the dwellinghouses.

REASON In the interests of visual amenity and road safety.

4. Notwithstanding the plans hereby approved, the roofs shall be clad in a grey or black tile, a sample of which shall be submitted to and approved in writing by the Council as Planning Authority prior to the commencement of works on site.

REASON In the interests of visual amenity.

5. Notwithstanding the plans hereby approved, samples of the external surface materials to be used on the walls shall be submitted to the Council as Planning Authority and agreed in writing prior to the commencement of development on site.

REASON In the interests of visual amenity.

6. A landscaping scheme for the site and the area to the south of the site to Cutstraw Road shall be submitted to and approved by the Planning Authority prior to the commencement of any development, and shall be implemented not later than the next appropriate planting season after the development has been carried out. The said landscaping scheme shall provide for the retention of hedging and trees along the eastern boundary of the site.

REASON In the interests of visual amenity.

7. A Sustainable Urban Drainage System (SUDS) to treat and minimise surface water run-off within the site shall be developed in accordance with the plans submitted to the Planning Authority and to the requirements of the Scottish Environment Protection Agency (SEPA). The SUDS system shall be in place prior to the occupation of any of the houses.

REASON In order to facilitate the disposal of surface water run-off as a result of the development.

8. Construction works on site shall not take place prior to 08:00 hours and after 17:00 hours on Mondays to Fridays, outwith 08:00 to 13:00 on Saturdays, and not at any time on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interests of residential amenity.

9. Notwithstanding the details on the plan hereby approved, the level information sections through blocks 3, 4 and 5 are not approved. Further details confirming proposed ground floor levels of the proposed house and finished external ground levels shall be submitted for the approval of the Planning Authority. Said details shall confirm the relationship relative to the site to the south west and shall be implemented as approved.

REASON In the interests of visual/residential amenity.

10. Prior to the commencement of development on site the applicant shall submit written confirmation of the suitability of the proposed bin storage arrangement to accommodate the Council's 3-bin re-cycling scheme and revised drawings indicating any proposed bin store details. Thereafter, any bin storage shall be provided as agreed by the Planning Authority.

REASON In the interests of public health and residential amenity.

11. Notwithstanding the details of the plans hereby approved the detached garages for Plots 1 and 2 are not hereby approved.

In the interest of residential amenity and road safety.

Notes to Applicant:

1. Prior to the commencement of development on the site, the applicant should satisfy himself as to the suitability of the site for construction purposes.

2. A copy of the consultation response received from The Coal Authority is attached. The developer is strongly advised to note same and take any appropriate recommended action.

3. SEPA have advised that all drainage arrangements should be to the public sewer and consideration given to the use of Sustainable Urban Drainage (SUDS) techniques for the disposal of surface water. SEPA have further advised that any waste arising should be disposed of at a suitably authorised site. The developer is advised to contact SEPA at 2 Alloway Place, Ayr, KA7 2AA, Tel 01292 294 000, particularly with regard to confirming the consequences, if any, of surface water drainage connection to the public sewer.

4. The applicant should make early contact with Scottish Water at their Office at 35 Glenburn Road, Prestwick, KA9 2NS, Tel 0845 601 8855.

5. Following the advice in Note 4 above, the developer is advised that the Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific arrangements 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. The developer should not assume that East Ayrshire Council will undertake maintenance unless there is a site specific agreement to that effect. Where the developer makes his own maintenance arrangements, the Council will require to be convinced that these will work without impact on Council interests.

6. The applicant will require to secure the necessary Roads Construction Consent, details of which should be discussed with the Roads and Transportation Division of East Ayrshire Council.

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