

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 19 MAY 2006**

**05/1219/OL: PROPOSED OUTLINE RESIDENTIAL DEVELOPMENT  
AT MAIN ROAD, CROOKEDHOLM  
BY ALIH/BRENT DEVELOPMENTS**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 The proposal aims to gain outline planning permission for residential use of the site and the means of access to the site. The proposal identifies that the site is liable to flooding. Therefore to ensure the site is not liable to inundation during a 1 in 200 year flood event the ground level of the site will require to be raised to approximately 29.8 metres Above Ordnance Datum adjacent to the War Memorial and to approximately 29.28 metres Above Ordnance Datum at the western end of the development site. Said works would involve the alteration of the ground levels through the part infilling of the site, rather than through the creation of a protective embankment. The proposed infilling necessary for the flood prevention works would result in the creation of a hollow adjacent to Main Road, Crookedholm directly opposite the Church. The applicant has indicated that the information levels provided are to show that works can be carried out which address the flooding issues associated with the site and not the actual proposed finished levels of the site. This proposal would require the importation of materials to the site.

#### **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 with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.6 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 the refusal of the application.

3.3 Neither SEPA nor the Council's own Roads Division's analysis of flood risk indicate that development of the site could not proceed in principle.

### **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, and if such refusal was on the basis of the principle of residential development, the application will require to be referred to the Development Services Committee because such a decision would 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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AT MAIN ROAD, CROOKEDHOLM  
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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 an outline 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 site comprises an area of agricultural land on the south side of Main Road, Crookedholm. The site extends to a total of 0.96 hectares in area and is bounded on the north and east by Main Road, Crookedholm, to the south by the River Irvine and to the west by residential units. The site sits approximately 28.5 to 29.25 metres Above Ordnance Datum (AOD). At its eastern end where the road crosses the River Irvine the site sits 2 metres below Main Road, Crookedholm.

2.2 **Proposed Development:** The proposal aims to gain outline planning permission for residential use of the site and the means of access to the site. The proposal identifies that the site is liable to flooding. Therefore to ensure the site is not liable to inundation during a 1 in 200 year flood event the ground level of the site will require to be raised to approximately 29.8 metres Above Ordnance Datum adjacent to the War Memorial and to approximately 29.28 metres Above Ordnance Datum at the western end of the development site. Said works would involve the alteration of the ground levels through the part infilling of the site, rather than through the creation of a protective embankment. The proposed infilling necessary for the flood prevention works would result in the creation of a hollow adjacent to Main Road, Crookedholm directly opposite the Church. The applicant has indicated that the information levels provided are to show that works can be carried out which address the flooding issues associated with the site and not the actual proposed finished levels of the site. This proposal would require the importation of materials to the site.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no objection to the proposal subject to the attachment of appropriate conditions regarding sightlines and the Sustainable Urban Drainage Systems.

***Appropriate planning conditions can be attached to the grant of any planning permission for this development addressing these matters.***

3.2 East Ayrshire Council's Roads and Transportation Division (Flooding Section) have no objection to the proposal providing the finished ground level of the site is no less than that required to be above the 1 in 200 year flood event level. Floor levels for each phase should be at least 0.5 metres above these ground levels. The proposal will result in no increase in the peak water levels downstream of the development. However, it will result in a 70 mm increase for the predicted 200 year return flood event in the area where protection has recently been constructed upstream. It is considered that these could be acceptable provided there are no other developments in the vicinity that would adversely affect peak water levels further.

3.3 However they indicate that they have concerns regarding the basin/ hollow effect created by the partial infilling of the site and the potential detrimental effect that this could have on surface water disposal drainage design from this area. They also indicate that the proposed infilling adjacent to the river banking should be set back by a clear 2metre wide strip from the existing river banking, said infilling should then be graded to 1 in 3 slope and have a 2 metre wide berm (plateau) prior to the ground being graded towards Main Road. They also indicate that surface water from the site should be prevented from discharging into the adjacent residential properties.

***Conditions can be attached to any grant of planning permission in relation to required finished floor levels, ground levels, drainage arrangements and details of the proposed infilling works. There are no other developments in the vicinity which would affect the peak water levels.***

3.4 Scottish Water indicated that they object to the proposal however will remove their objection if the developer can demonstrate that the development will not have a detrimental impact on their assets or that suitable infrastructure can be put in place to support the development. The proposal should utilise a Sustainable Urban Drainage System.

***A note can be attached to any grant of planning permission informing the applicant of Scottish Water's position. A condition can be attached to any grant of consent relating to the requirement for a Sustainable Urban Drainage System.***

3.5 Scottish Environment Protection Agency (SEPA) indicated that all foul drainage from the site should be connected to the public sewer. However they seek written assurance from Scottish Water that the additional flow arising from this development will not cause or contribute to the premature operation of consented storm overflows.

3.6 In addition, SEPA request that any planning permission granted includes 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.

3.7 SEPA would expect all necessary mitigation measures to be taken during the construction phase of the project to ensure that the pollutants typically associated with this aspect of the works e.g. silts, concretes, etc. do not enter the watercourses adjacent to the site.

***Conditions and notes can be attached to any grant of planning permission in relation to these matters.***

3.8 SEPA are satisfied that the Flood Risk Assessment (FRA) represents a reasonable estimation as to the risks of flooding to the site, and the off site impacts as a result of the proposed development and flood mitigation measures.

3.9 SEPA would still question the manner in which SPP7 has been interpreted in the FRA. The site is not currently protected by flood alleviation measures, and whilst the site is adjacent to an urban area, the land is currently undeveloped and has been demonstrated as being part of the River Irvine floodplain. In this respect the development site could be interpreted as constituting part of the functional floodplain of the River Irvine.

3.10 However, the FRA identifies that the main impact of the development proposals lies upstream of the site, in an area which is now defended by the recent flood alleviation measures in the Crookedholm area. Therefore the impact of this development will be to erode the design freeboard of the flood alleviation scheme in the Crookedholm area, but will not affect any areas outwith the flood prevention scheme.

***As indicated above the Council's Flooding Section have assessed the proposal and supporting documents and have found that the proposal will have a minimal impact on the peak flood levels in a 1 in 200 year and 1 in 100 year flood event. During these events there will be no increase in the peak water levels downstream of the development, the 70 mm increase for the predicted 200 year return flood event in the area where protection has recently been constructed would be acceptable, provided there are no other***

**developments in the vicinity that would adversely affect peak water levels further. There are no current planning applications in the locality which would increase the peak water level at this locality.**

**With regard to the interpretation of SPP7 it is considered that the scheme is acceptable. While the proposal does result in development on a known flood plain, the loss of flood storage capacity due to the development would be minimal and the development would not increase the risk of flooding to other properties.**

3.11 Hurlford & Crookedholm Community Council object to the proposal due to the positioning of the planned vehicular access road. They feel the proposed access road will compromise and endanger the safety of the drivers both on the main road and the access road. At peak times, but more especially in the evenings, there are hold-ups on the main road, and they feel that the proposed road will exacerbate the problem, increasing the frustration of the motorists using both roads and perhaps induce them to take more risks, thereby increasing the possibility of more accidents on or near this junction.

**The objection of the Community Council is noted. However, the Roads Division have not objected to the proposal.**

#### **4. REPRESENTATIONS**

4.1 Four individuals and a petition with 30 signatories, Scottish Water and the Community Council have all objected to the proposal. The Community Council and Scottish Water's comments have been detailed in Section 3 above. The individuals object on the following grounds:

4.2 Road Safety - this area is an accident black spot and in recent times cars have crashed damaging, on different occasions, the hedge, the lamppost, the bus shelter, the wall and fence on the north side of the road and the houses metal railings.

**The new road access point requires junction sightlines of 2.5 metres by 90 metres. This will result in the removal of a section of the hedge on the southern side of Main Road, thus improving visibility for drivers and road users over this section of the road. The Roads Division have not objected to the proposal.**

4.3 The site floods; what effect will the development have on the flood prevention scheme?

***As indicated above in the response of the Council's Roads Flooding Section, the proposal will have a minimal effect on the Flood Prevention Scheme.***

4.4 To achieve the site lines for the new junction the existing hedge will require to be removed, this will be of detriment to the wildlife and the environment of the area.

***The proposal will result in the loss of a 90 metre section of the hedge on the southern side of Main Road, Crookedholm. It is considered that this will have a minimal effect on wildlife given the urban locality of the site.***

4.5 The sewerage system is inadequate to deal with the additional houses and may lead to pollution of the river.

***Scottish Water have objected to the proposal and the applicant is required to address that matter. It is the responsibility of both SEPA and Scottish Water to regulate the disposal of sewerage from the site and any potential pollution of the river.***

4.6 Why does the proposal need to be raised above the existing level? Assurances have been given to us (the local Residents) that following the flood prevention scheme being implemented the houses in Crookedholm would not flood.

***The proposal requires to be raised above the existing level to prevent the site from being flooded during a flood in excess of a 1 in 200 year event. The Crookedholm Flood prevention scheme implemented by the Council is designed, to protect Crookedholm from a 1 in 100 year flood event. Therefore it is not possible to give any assurances that Crookedholm will not be flooded during flood events which exceed that 1 in 100 flood event level.***

4.7 The importation of materials to the site will result in debris on the road and if the scheme gets consent then the developer should be made to sweep the road on a regular basis.

***A condition can be attached to any grant of planning permission addressing this matter.***

4.8 The disruption to traffic flow on Main Road will be intolerable during peak times during construction and will be made worse if temporary traffic lights are needed.

***Any construction works within the public highway will be regulated by the Roads Authority.***

4.9 Scottish Planning Policy 7 indicates that new development should not take place if it would be at significant risk of flooding from any source or increase the probability of flooding elsewhere.

***As indicated above, the proposal will not result in the increase of flooding elsewhere. SPP7 does allow for development on land subject to flooding, provided the scheme will not require flood protection measures.***

4.10 Brownfield sites are acceptable but greenfield sites should be avoided if alternative sites are available.

***While the application site is a greenfield site within the settlement boundary it is not directly protected by flood prevention works, therefore SPP7 does not restrict the development of this land. It should be noted that land raising is not construed, under SPP7, to be a flood prevention measure.***

4.11 Surface water run-offs from developments should be drained by a sustainable drainage system.

***It is proposed to attach a planning condition to any grant of planning consent addressing the disposal of surface water via a sustainable urban drainage system.***

4.12 Proposals for land raising should be linked to the provision of compensatory floodwater storage to replace the lost capacity of the area where the land has been raised.

***As indicated above the proposal provides minimal flood storage and therefore there will be a nominal loss of flood storage. The loss of storage capacity can be accommodated with a minimal effect on the Flood Prevention scheme.***

4.13 Future owners will have difficulty getting insurance for their house.

***SPP7 indicates that this is a matter for the developer and potential homeowners, not the Planning Authority.***

## 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 Ayrshire Joint Structure Plan Policies ADS 3 and G1 are relevant to this proposal. Policy ADS3 indicates that new residential, economic, commercial, cultural, educational and community development shall be directed to, and located within, settlements as defined by Local Plans.

***The proposal accords with the requirements of this Policy.***

5.3 Policy G1 indicates that the three Ayrshire Councils shall, in providing for new development, give priority to the use of land within existing settlements.

***The proposal accords with the requirements of this Policy.***

### East Ayrshire Local Plan

5.4 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 a set of four stated criteria, as follows:

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

***It is considered that the proposed development will not have any adverse impact on the surrounding natural and built environment and adjacent uses, subject to planning conditions being attached to any grant of consent requiring that the infilling ground works raise the ground levels to tie into that of Main Road, Crookedholm with the exception of the area adjacent to the War Memorial. A planning condition should also be attached to which requires that the proposed development provides for a house layout which has an appropriate frontage onto Main road Crookedholm, while taking vehicle access from the rear.***

- (ii) transportation and infrastructure implications;

***The Council's Roads Division have no objection to the proposal however Scottish Water object to the proposal.***

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

***The application is in outline only and therefore the compatibility of the proposed house type with surrounding properties will be addressed at the reserved matters stage of the application.***

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

***The application is in outline only and it is therefore not possible to comment on the compatibility of the proposed development with the Council's Development Promotion and Design Guidance.***

5.5 Policy ENV 17 states that in areas that are known to have flooded in the past, a precautionary approach to development will be pursued. The Council will require any developer wishing to develop land which has been known to flood in the past to fully investigate the implications of flood risk on their proposals and on adjoining land and property. Appropriate flood prevention measures should be incorporated into the design of their proposals so as to remove or reduce to an acceptable minimum, any adverse effects from flooding that may be experienced. The Council will also expect developers to enter into agreements under Section 75 of the Town and Country Planning (Scotland) Act 1997, to provide and finance any necessary flood prevention infrastructure that may be required in association with their proposed developments.

***A flood risk assessment has been submitted by the applicants which states that the site can be developed within acceptable flood risk levels if mitigation works are carried out to raise the level of the site. SEPA and the Council's flooding officer are satisfied that the proposal will not create a flood risk or have a detrimental impact on flood storage capacity in the area. It will not require any further flood prevention infrastructure.***

5.6 Policy TLR5 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.

***The developer has indicated that they are willing to make a contribution to the TLR5 fund.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received and the issue of impact on the amenity of the area.

### Consultation Responses

6.2 With the exception of the Community Council and Scottish Water, the consultation responses are supportive of the application.

### Representations

6.3 The representations received have been summarised in Section 4 of the report and are not considered to be of such weight as to merit refusal of the application.

### Impact on the Amenity of the Area

6.4 The circumstances of the site are such that it is considered that the proposal can be accommodated, subject to the attachment of appropriate planning conditions to any grant of planning consent, with no detriment to the area.

### Planning History

6.5 Planning application 05/0058/OL was received for residential development of part of the site. This application is yet to be determined.

## **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 TLR 5 will require a formal legal agreement to be entered into between the Council and the applicant.

## **8. CONCLUSION**

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 the refusal of the application.

8.3 Neither SEPA nor the Council's own Roads Division's analysis of flood risk indicate that development of the site could not proceed in principle.

## **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 with the applicants in respect of a financial contribution to the TLR5 fund, as referred to in paragraphs 5.6 and 7.1 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, and if such refusal was on the basis of the principle of residential development, the application will require to be referred to the Development Services Committee because such a decision would represent a significant departure from Council Policy.

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

10 May 2006  
(CSI/MMM)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning History.

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

***Implementation Officer: Dave Morris***

## EAST AYRSHIRE COUNCIL

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

05/1219/OL

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Site of Proposal:	Land South of Main Road Main Road Crookedholm KILMARNOCK KA3 6JT
Nature of Proposal:	Outline Residential Development and Formation of New Vehicular Access
Name & Address of Applicant:	ALIH Ltd 1 Buckingham Place LONDON SW1E 6HR
Name & Address of Agent:	James Barr 226 West George Street GLASGOW G2 2LN

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DPOs Reference: CSI/MMM

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

1. Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the under mentioned matters hereby reserved.
  - (a) The layout of the site;
  - (b) The size, height, design and external appearance of the proposed dwellinghouses;
  - (c) The means of drainage and sewage disposal;
  - (d) Details of the access arrangements;
  - (e) The provision for open space and associated maintenance arrangements;
  - (f) The provision for car parking;
  - (g) The boundary walls/fences to be erected;
  - (h) The landscaping of the site and associated maintenance arrangements.
  - (i) The existing and proposed site levels.

REASON The approval is in outline only.

2. Notwithstanding the plans hereby approved visibility splay areas of  $x = 2.5$  metres and  $y = 90$  metres shall be provided at the junction of the access to the development with the public road with no obstruction to visibility greater than 1 metre in height being allowed within these areas. Thereafter, the approved sightlines shall be provided prior to the commencement of the development and maintained and retained in accordance with the approved details.

REASON To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.

3. Notwithstanding the approved plans the finished ground levels of the site are not hereby approved. Revised finished ground levels shall be submitted to and approved by the Planning Authority in writing, as part of any reserved matters application. Said revised ground levels shall ensure a consistency of levels between the footpath on Main Road, Crookedholm and the application site.

REASON To ensure that the finished levels of the site do not create a low-lying area of land adjacent to the public highway which would be detrimental to the visual amenity of the area.

4. Notwithstanding the approved plans, precise details of the engineering/building operations required for the flood prevention works shall be submitted to and agreed in writing, as part of any reserved matters application for the site.

REASON To ensure that the development is carried out to the appropriate standard without detriment to the surrounding environment.

5. Prior to the commencement of the development details of the surface water drainage system shall be submitted to and approved by the Planning Authority. Said surface water drainage system shall ensure that no surface water is discharged from the application site in to the adjacent residential unit at No. 43 Main Road.

REASON In the interests of residential amenity

6. Prior to any work commencing on site, the applicants shall submit a traffic Management Scheme for the development which shall be agreed in writing by the Planning Authority. Thereafter the approved scheme shall be implemented and maintained throughout the duration of on- site operations.

REASON In the interests of road safety

7. External construction works shall take place only between the hours of 8:00 am to 6:00 pm Monday to Friday and 8:00 am to 1:00 pm Saturday and at no time on a Sunday.

REASON In the interests of the amenity of the area.

8. 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.

9. The public highway in the locality of the site shall be kept clear of mud or any other deposited materials at all times by means of mechanical brushing to the satisfaction of the Planning Authority.

REASON In the interests of road safety.

10. Notwithstanding the approved plans the finished ground floor level of the proposed houses shall be 500mm above the 1 in 200 year flood event level. Details of the exact floor levels shall be submitted to and approved by the Planning Authority in writing, as part of any reserved matters application.

REASON To ensure the proposed dwellinghouses have a finished floor level above that of the 1 in 200 year flood event

11. Before any development commences, further approval of the Planning Authority is required for, and details shall be submitted to and approved by the Planning Authority of, the layout of the development site. Said development layout shall provide for there being a residential frontage to Main Road, Crookedholm. Vehicular access for houses having a frontage to Main Road shall be taken from the internal access road of the development and not from Main Road, Crookedholm.

REASON To ensure the proposed development provides an appropriate streetscape to Main Road Crookedholm.

NOTE:- The applicant should have early contact Scottish Water to discuss their objection to the application and to achieve a development not having a detrimental impact on the assets or infrastructure of Scottish Water.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S**

**PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**