

**EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 25 NOVEMBER 2005**

**05/0977/OL: OUTLINE PLANNING PERMISSION FOR ONE  
DWELLINGHOUSE  
AT LAND ADJACENT TO MAIN ROAD, WATERSIDE, KILMARNOCK  
BY MRS KAY CRAWFORD**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for the erection of a dwellinghouse. The applicant has indicated on the application form that it is proposed to utilise the existing access point from the A719 to the garage and hard standing presently on site. The application site has dimensions of some 19 metres in width by 42 metres in length and covers an area of some 960 sq metres, however the land within the redline site is formed with significant differences in levels with a gradient down to the Craufurdland Water and gradients to the south east and north east within the site.

**2. RECOMMENDATION**

**2.1 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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DWELLINGHOUSE  
AT LAND ADJACENT TO MAIN ROAD, WATERSIDE, KILMARNOCK  
BY MRS KAY CRAWFORD**

**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, due to the fact that an objection has been submitted in respect of the application and the application is considered to be contrary to the provisions of the Local Plan.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises land to the north east of the dwellinghouse at 16 Main Road, Waterside on the opposite side of Main Road (A719). The application site is currently occupied by a single timber garage and hard standing. The site is bounded by a steep embankment and agricultural land to the south east, a steep embankment down to Craufurdland Water to the north, sloping land to the north east which the applicant states to be in his ownership and the A719 to the west.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of a dwellinghouse. The applicant has indicated on the application form that it is proposed to utilise the existing access point from the A719 to the garage and hard standing presently on site. The application site has dimensions of some 19 metres in width by 42 metres in length and covers an area of some 960 sq metres, however the land within the redline site is formed with significant differences in levels with a gradient down to the Craufurdland Water and gradients to the south east and north east within the site.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have recommended refusal of the application on the grounds that the applicants have failed to demonstrate that the necessary sightline standards can be achieved and

that parking standards for both the existing dwellinghouse and the proposed dwellinghouse can be met. In addition the flood risk to the proposed site should be considered in respect of flooding from the adjoining water course and from the surface water system that runs through the site along with the run off from the adjoining ground.

***In response to the requirements of the Council's Roads and Transportation Division the applicant submits that the existing access to the site has been in existence since 1780 and there is no intensification of usage via the existing access. As detailed the applicant has failed to adequately demonstrate that the sightline, parking standards and flood risk issues can be met or resolved.***

3.2 Scottish Water have raised no objections subject to the imposition of conditions on any planning consent pertaining to; connections to the wastewater system and/ or water network, and the possible requirement that the water pressure may require private pumping arrangements. They advise that there are no known public sewers in the vicinity.

***A note can be attached to any grant of planning consent addressing the matters of connections to the wastewater system/ network and the water pressure and a condition in respect of the drainage can be applied.***

3.3 Scottish Environment Protection Agency (SEPA) have made no objection to the proposal however the drainage arrangements will require to be to SEPA's satisfaction, where SEPA's preferred method for the disposal of septic tank effluent is the provision of a sub soil soakaway system. In addition, in respect of flood risk, SEPA recommends that the applicant either assesses the risk of flooding to the proposed development or demonstrates, that design levels are significantly above normal river levels (2 to 3 metres) so as to pose no significant risk and the applicant should confirm that there are no significant restrictions in the downstream channel or floodplain area.

***The applicant was advised of SEPA's comments in respect of drainage of the site and flood risk, and submits in writing that the height of the proposed development would be at least 2 to 3 metres above the normal height of the river, however no information has been received from the applicants in respect of drainage or restrictions in the downstream channel or floodplain area, therefore these matters remain outstanding.***

3.4 Moscow and Waterside Community Council have made no objections to the proposal.

***Noted.***

#### 4. REPRESENTATIONS

One letter of representation has been received in relation to the proposal. The grounds of objection are summarised as follows;

4.1 The site is located outwith the settlement boundary as delineated in the Adopted Local Plan, it is therefore located within the Rural Protection Area and fails to satisfy criteria RES 13 of the Local Plan and policies G5 and ADS5 of the Structure Plan.

***The site is located outwith the settlement boundary as defined in the East Ayrshire Local Plan and the Ayrshire Joint Structure Plan and an assessment against the relevant policies are detailed in Section 5 of this report.***

4.2 No expansion of the village is proposed in the Council's Spatial Development Options.

***The Council's Spatial Developments Options Paper does not specifically state that no expansion is proposed in Waterside and it is noted that this is a discussion paper only therefore it is not considered relevant to refer to this document in the determination of any planning application.***

4.3 There is lack of public sewers in Waterside which raises the question of how the site would be drained without potentially polluting the Craufurdland Water.

***As detailed in section 3 Scottish Water and SEPA have confirmed that there is not a public sewer in the vicinity, therefore a septic tank is the proposed means of treating foul drainage. The applicant has not submitted any information regarding the outstanding drainage issues, however all foul drainage measures will require to meet the standard of SEPA and the Council's Building Standards Division.***

4.4 The application requires a flood risk assessment as per SPP7 given that the development is proposed on a river bank of a water course which has markedly changed course upstream.

***The applicant has been advised of the comments raised in respect of flooding from the Council's Roads and Transportation Division and SEPA and has only submitted written confirmation in respect of the height of the development relative to the river and therefore it is considered that the applicant has not satisfactorily demonstrated that the site is not at risk of flooding.***

4.5 There is no indicative footprint for the proposed house where the site is narrow and constrained by the river bank and the sloping wooded banking.

***There is no requirement to provide an indicative footprint of the proposed house as the application is in outline, however the site is constrained by the topography of the land, with the steep gradients to the north down to Craufurdland Water and to the south east. Owing to these steep gradients it is considered likely that in order to accommodate a dwellinghouse on the site extensive excavation and retention works would be required to the south east embankment.***

4.6 The proposal will have an adverse impact of the nearby listed buildings and will be detrimental to the setting of the Mill particularly when viewed from upstream.

***Given that the application site is located on the opposite side of Main Road, the A719, it is considered that the proposal is a significant distance away, and separated by a public road, from the property at 16 Main Road and the Mill Building and therefore it is considered that the proposal will not have a significant detrimental impact on the setting of those listed buildings.***

4.7 The proposal will adversely affect the setting of the village, where the wooded banking which is community owned to the south forms an important visual feature in the village centre.

***The site is located within the Rural Protection Area and it is considered that it will introduce a significant detrimental impact to the character and setting of the Rural Protection Area. Should planning permission be granted it is considered that the dwellinghouse would detract from the openness and rural appearance of the area.***

4.8 The site is currently used for parking and bin stores by the occupants of 16 Main Road and it would appear that the application site will not accommodate this existing parking/ storage, however no alternative provision for the property at 16 Main Road has been proposed. Furthermore it is understood that the lower part of 16 Main Road has been subdivided into 1-2 flats in the last few years therefore this may require the provision of 4 car parking spaces for the existing property/ properties.

***As detailed in Section 3 the applicants have failed to adequately demonstrate that parking provision for the existing property and parking provision and access for the proposed dwelling can be accommodated to the satisfaction of the Council's Roads and Transportation Division. This Division has no record of the property***

**at 16 Main Road having planning consent to be sub-divided into flatted dwellings and this matter has been brought to the attention of the Council's Enforcement Officer for investigation.**

4.9 If a new house is approved outside the approved/ adopted village boundary this nullifies the democratic Local Plan process which was recently carried out and it would create an undesirable precedent.

***The applicants have been advised of the course of action they could take to put forward a formal request to the Council to consider extending the Waterside settlement boundary under the Local Plan review.***

## **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 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 as 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 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 SEPA as detailed in section three, 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 above.

***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. Three 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.***

- (vii) 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 Waterside and will thereby disrupt the rural character of the area.***

- (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, Scottish Water and SEPA.***

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 representations received, information submitted in support of the application by the applicant, the planning history of the site and the impact on the amenity of the area.

## Consultation Responses

6.2 The applicant has failed to satisfactorily demonstrate that the comments of the Council's Roads and Transportation Division, SEPA and Scottish Water can be accommodated in terms of providing a safe access to the site and adequate parking standards for the existing and proposed dwellinghouses and flood risk and therefore these matters remain unresolved.

## Representations

6.3 The representation received has been summarised in Section 4 of the Report and is consistent with a recommendation that the application be refused.

## Impact on the amenity of the area

6.4 It is considered that the proposal represents an inappropriate and unjustified form of development within the rural area which shall impose a significant impact to the detriment of the visual amenity of the area and set an undesirable precedent for future development of the countryside.

## Planning History

6.5 There is no planning history for the application site, however an outline planning application for a dwellinghouse on the adjacent land to the south was withdrawn in October 2004.

## Supporting Information

6.6 The applicant has submitted a statement in support of the application which is summarised as follows:-

6.7 The applicant submits that the land is currently used for parking, access and garden area for the existing dwellinghouse at 16 Main Road and has a historic land use for at least a quarter of a century for these ancillary residential uses and submits that residents will be able to testify that the site has had residential use and vehicular access for more than 30 years.

***There are no Council records detailing that either planning consent or a certificate of lawfulness has been obtained for the garage structure, hard standing or vehicle access onto the A719. The applicant has been advised of the course of action to put forward a representation in respect of the Local Plan review for inclusion of this land within the settlement boundary. Irrespective of this the applicant wishes the application to be determined prior to any Local Plan review.***

6.8 The applicant submits that the proposal complies with Scottish Planning Policy 3 (SPP 3) 'Planning for Housing' where; existing settlements are more likely to accommodate additional development with least servicing costs and with the minimum impact on agriculture and amenity generally; development should therefore be encouraged on suitable sites in existing settlements; development plans maximise the potential that can be secured for more sustainable patterns of development through the re-use of previously developed land and preference should be given to the re-use of previously developed land before Greenfield sites are considered.

6.9 The applicant submits that the proposal complies with Scottish Planning Policy 1 (SPP1) 'The Planning System' where; Ministers expect the planning system to play a major part in delivering development which is sustainable, both in new build and in the re-use of existing stock; Planning authorities should therefore promote the re-use of previously developed land in preference to greenfield land; before any green belt land is identified for development, there should be a realistic appraisal of the opportunities for development on sites within the existing urban area and development plans should be capable of responding to changes in demand, and take account of up-to-date information on supply, through the housing land audit and other information such as capacity studies.

6.10 The applicant further states that the definition of a settlement boundary for the application site should be based on the principles of Government Policy SPP1 and SPP3.

***The application site is not located within the settlement boundary as detailed within the adopted East Ayrshire Local Plan. The principles of SPP3 and SPP1 are noted, and will be taken into account in the review of the Local Plan.***

***It is considered that SPP1 and 3 are material considerations in the assessment of this application, however it is not considered that either of these statements of Scottish Executive Policy advocates inappropriate extensions to settlement boundaries or inappropriate development outwith settlement boundaries and within the rural area. In respect of extensions to existing settlements the Scottish Executive policy directs the release of Greenfield land next to built up areas where brownfield and infill sites within the settlement cannot meet the full range of housing requirements. The applicant has not submitted any evidence to support that the current housing market cannot meet the housing requirements in Waterside. In this regard it is considered that the recent residential development adjacent to the former Mill and indeed the re-development of the Mill itself at Waterside will satisfactorily provide a range of housing opportunities and therefore there is no justification to sanction an extension to the settlement boundary or departure from the East Ayrshire Local Plan. The Plan was only adopted two and a half***

***years ago and therefore significant weight has to be given to the policies contained therein in the assessment of the current application.***

6.11 The applicant submits that East Ayrshire Local Plan policy SD1 states that this authority will adhere to the principles of sustainability in all of its development proposals and submits that Government policy is clear with this site being the most sustainable option available.

***The applicant has not submitted a detailed sustainability appraisal or any evidence to substantiate the claim that the proposed site is the most sustainable option.***

6.12 The applicant submits that the site is at a central, well integrated location to the existing community amenities with all infrastructure in place, does not impose any impact to agricultural land and maximises the most efficient use of the existing land in the most sustainable of locations, with strong defensible barriers to the open countryside beyond.

***The site is not located centrally within the settlement of Waterside and is located outwith but adjacent to the edge of the settlement boundary, indeed if the application site was located centrally in Waterside it would therefore be located within the settlement boundary. As detailed in Section 6.11 the applicant has not submitted any evidence to demonstrate that the site is the most sustainable option.***

6.13 The applicant submits that Policies SD3 and SD4 of the East Ayrshire Local Plan are primarily intended for proposals for development on undeveloped land and that policy SD6 relates to previously developed land. The applicant considers the proposal to be in compliance with policy SD6.

***Policy SD3 states five circumstances where development will be acceptable outwith settlement boundaries within the Rural Protection Area, where criteria (i) requires residential use to comply with policy RES13. As detailed in section 5.8 the proposal is contrary to RES13, therefore does not form an acceptable form of residential development and fails to comply with SD3.***

***Policy SD4 relates to development within the Rural Diversification Area. The application site is not located within the Rural Diversification Area therefore policy SD4 does not apply.***

***It is noted that policy SD6 encourages the re-use and redevelopment of brownfield land, both in the area settlements and in the rural area, in preference to the development of Greenfield sites, however as***

***detailed the principal of the development does not comply with either the Structure or Local Plan policies therefore it is considered that policy SD6 is not applicable to the assessment of this application.***

6.14 The applicant submits that the Local Plan states that “The Plan recognizes that the supply of housing land may not be sufficient to meet any unexpected increase in demand. In such a case, the Plan allows a degree of flexibility by allowing for additional release of housing land subject to certain criteria being met, without necessitating a major review of the Plan”.

***As detailed in section 5.7 there is no demonstrated shortfall of effective housing land within the East Ayrshire Housing Market Area and as previously detailed the application fails to comply with the criteria of policies SD3 and RES13 for residential development outwith the settlement boundary.***

6.15 The applicant submits that there is an anomaly in the local plan settlement boundary in that the application site is urban residential built up land contiguous to other built up land but is not included in the settlement boundary and that Section 4 of the Town and Country Planning (Scotland) Act 1997 (1997 Act) obliges the Council to undertake surveys of its area. This is in order to “keep under review the matters which may be expected to affect development of their area”. It is claimed that this anomaly has occurred by a failure to perform a rigorous up to date assessment of settlement boundaries as is required by the said act, and with the fact that this authority has no clear policy to meet Scottish Executive Requirements (SPP3) and that it is therefore based on a subjective viewpoint. This is wholly unacceptable and therefore it is stated that the local plan is completely questionable on the existing settlement boundary definition and that each application such as this must be decided on the matter of facts rather than the unclear, incoherent, inconsistent illogical and potentially unfair and certainly flawed approach used.

***East Ayrshire Council are currently undertaking a review of the Local Plan including the identification of appropriate settlement boundaries. The applicant has been advised of the course of action to put forward a representation in respect of the Local Plan review for inclusion of this land within the settlement boundary. Irrespective of this the applicant wishes the application to be determined prior to any Local Plan review. The process of formulating the current Local Plan (adopted April 2003), also involved an assessment of appropriate settlement boundaries. There has been no failure to perform the statutory duty as suggested by the applicant.***

6.16 The applicant claims to have an innovative re-development proposal that will encompass a superb design to complement and enhance the character of the

village and with some outstanding plans for energy conservation and with a renewable energy source.

***The application is in outline only and no details have been submitted in respect of the design of the proposed dwellinghouse.***

6.17 The applicant has also commented on the objections as follows (in summary):-

- SEPA make only suggestions about flood risk, sewage arrangements and water run off;
- Building Standards will determine matters pertaining to foundations;
- The Community Council support the application and owners of private land do not object in respect of the setting of the listed building;
- Access from a privately owned site to another piece of land is not a planning concern, nor is the non existent change to the dwelling at 16 Main Road;
- The riverbank is already maintained satisfactorily and there are no plans in this proposal to intensify the use of the existing access;
- Parking arrangements for 16 Main Road are for the owners of that property;
- It is for the owner of adjacent undeveloped ground to argue the case for planning permission on its own merit;
- The proposal will not hinder the view;
- We have kept a balance on site in terms of uses; the proposal could be conditioned to maintain balance in terms of setting and character.

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

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

## **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**

18 November 2005  
(GC/MMM)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning Application 03/0667/OL.

Anyone wishing to inspect the above papers please contact Gillian Craig, Senior Planning Officer, on 01563 576769.

**Implementation Officer: Dave Morris**

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0977/OL

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Site of Proposal:	Land Adjacent to Main Road Waterside
Nature of Proposal:	Outline Planning Permission For One Dwellinghouse
Name & Address of Applicant:	Mrs Kay Crawford 16 Main Road Waterside KILMARNOCK KA3 6JB
Name & Address of Agent:	N/A

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DPOs Reference: GC/MMM

The above OUTLINE 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 ADS3, ADS5 and G5 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 RES2, RES13 and RES17.
3. The proposed development would constitute unwarranted visual intrusion into the open countryside.
4. The applicant has failed to detail how an appropriate vehicular access can be provided and maintained.

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