

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 28 OCTOBER 2005

**04/0560/OL: PROPOSED ERECTION OF DETACHED DWELLINGHOUSE
ON LAND AT THE BRAES, BURN ROAD, DARVEL
BY MR S GRANT**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the erection of a detached single storey dwellinghouse. The proposal would utilise the existing driveway access to The Braes dwellinghouse.

2. RECOMMENDATION

2.1 It is recommended that the application for planning permission 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. There are no material considerations that would indicate that the determination should be other than in terms of the Local Plan and thus the application should be refused.

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 it will not require to be referred to the Development Services Committee, as there would be no significant breach of 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 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 application site comprises 0.06 hectares of level front garden ground at The Braes, Burn Road, Darvel. The proposed housing plot is screened from Burn Road by a number of trees, which are located adjacent to Burn Road. The site is bounded to the south by a modern bungalow, to the west by housing on the opposite side of Burn Road and to the north and east by the garden ground of The Braes. The majority of the garden area of the Braes dwellinghouse is covered by Tree Preservation Order, TPO/1/1986 as the garden contains a number of mature trees.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of a detached single storey dwellinghouse. The proposal would utilise the existing driveway access to The Braes dwellinghouse.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have indicated that they have no objection to the proposal providing pedestrian access from the existing driveway of the site to the junction with Anderson Drive, 60 metres south of the proposed development, is provided. Said link would require a 2 metre wide footpath to be formed over the frontage of the site as well as the frontage of the neighbouring property at Braeside Burn Road.

The construction of the footpath over the frontage of the application site would have a detrimental impact on the mature trees adjacent to Burn Road within the site. Said trees are covered by a Tree Preservation Order therefore British Standard 5837 1991: Trees in Relation to Construction is applicable. The

British Standard indicates that tree root systems grow to be in equilibrium with their surrounding environment however it stresses the importance of protecting the established root system of trees from construction works and the significant detrimental effect that construction works can have on established tree root systems. As the proposal would require the footpath to be constructed within the designated restricted zones of the British Standard around the trees, it is considered to be unacceptable.

The proposal would also require the construction of the two metre wide footpath over the frontage of the neighbouring property. The 2metre wide service strip over the property frontage has been grassed over and incorporated into the householder's garden. However the Road's and Transportation Division have indicated that they have the power under the Roads Scotland Act to implement the footpath requirement over this area of land.

3.2 Power Systems have indicated that they have no objection to the proposal.

Noted.

3.3 Scottish Water have no objection to the proposal.

Noted.

3.4 Scottish Environment Protection Agency have not responded at the time of writing the report.

Noted.

3.5 Darvel and District Community Council have not replied to their consultation at the time of writing this report.

Noted.

3.6 East Ayrshire Council's Outdoor Services have indicated that, due to the age, size and height of the trees, the proposed house and any construction work would require to be located at least 8 metres, as required by BS 5837, away from the trees covered by the Tree Preservation Order. They indicate that the location of a footpath on Burn Road in close proximity to the trees may result in terminal damage to the trees. In addition they indicate that the applicant has shown the removal of two large acer trees on the northern boundary of the plot, it is considered that these trees should be retained.

This exclusion zone around the trees would leave an area of approximately 15 metres by 18 metres remaining on the site to accommodate a dwellinghouse, private garden ground and car parking provision for three cars.

4. REPRESENTATIONS

Two letters of objection have been received in relation to this application.

4.1 The three rooms on the side of the neighbouring house face onto the application site and the privacy of and light into the house would be affected by having a house built so close to this property.

As the application is outline in nature the exact impact of any proposed house on the neighbouring property cannot be assessed. However, it is considered that the impact of the proposal on the adjacent property would not result in a significant detrimental impact on their residential amenity. The relationship between the properties would be of a standard acceptable within settlement boundaries.

4.2 The proposed house would require trees to be removed, which have stood there for over 100 years.

It is considered that the proposal would have a detrimental impact on the trees located within the application site.

4.3 The proposed works would cause disruption in the area.

Any building works associated with the proposal may have a temporary detrimental impact on the adjacent properties. However this would be limited in duration and not sufficient grounds on which to refuse the planning application.

4.4 The proposal would be detrimental to the wildlife of the area.

The loss of the trees within the application site may have a detrimental impact on the wildlife resident in the area.

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).

Approved Ayrshire Joint Structure Plan

5.2 Not relevant in the determination of this proposal.

East Ayrshire Local Plan (EALP)

5.3 Policy RES 5 of the East Ayrshire Local Plan indicates that within settlement boundaries, the Council will be supportive of the sub-division of existing house curtilages for the development of dwellinghouses subject to the following criteria being met:-

- (i) The proposal is fully in keeping with the existing residential character and appearance of the area within which it is located;
- (ii) The proposal meets all the design requirements of the Council and does not create unacceptable damage to the amenity of surrounding properties; and;
- (iii) Acceptable levels of privacy are maintained to neighbouring properties and the new housing proposed.

Notwithstanding the outline nature of the application it is considered that a small, well designed house at this location may be compatible with the surrounding house types however any proposal would have difficulty providing 100 sq metres of private garden and adequate off road parking. The proposal would also require a 2 metres wide footpath over the frontage of the site, which may result in terminal damage to the protected trees at this location. Therefore it is considered that the proposal would have an unacceptable impact on the established amenity of the surrounding area.

5.4 Policy RES 22 indicates that all developers will require to adhere to the minimum private open space standards detailed in Schedule 4 of the Local Plan.

Due to the constraints placed on the site by the protected trees it is considered that the proposal would be unlikely to achieve the minimum private garden ground required for a dwellinghouse.

5.5 Policy ENV 15 of the East Ayrshire Local Plan indicates that the Council will actively seek to protect those individual groups of trees which contribute significantly to the landscape quality of the built and rural environment.

The proposal would have a detrimental impact on the mature trees covered by the tree preservation order within the site.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received which are addressed

in Section 3 of this report representations and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses are detailed in the report and are considered not to be supportive of the application.

Impact on Amenity

6.3 It is considered that the proposed development would have a detrimental impact on the established amenity of the area due to the impact that the required footpath would have on the protected trees within the site. In addition it is considered that the housing plot is of inadequate size to allow the location of a house and associated private garden ground and off road parking without significant impact on the protected trees and the amenity of the area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 None.

8. CONCLUSIONS

8.1 As indicated in the report the application is considered to be contrary to the terms of the Development Plan. There are no material considerations that would indicate that the determination should be other than in terms of the Local Plan and thus the application should be refused.

9. RECOMMENDATION

9.1 It is recommended that the application for planning permission 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 it will not require to be referred to the Development Services Committee, as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

19 October 2005
(CSI/MMM/IMB)

FV/DVM

LIST OF BACKGROUND PAPERS

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

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 & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0560/OL

Site of Proposal:	Land at The Braes Burn Road DARVEL
Nature of Proposal:	Proposed Erection of Detached Dwellinghouse
Name & Address of Applicant:	Mr S Grant The Braes Burn Road DARVEL KA17 0DB
Name & Address of Agent:	Munro Architects 23 Portland Road KILMARNOCK KA1 2BT

DPOs Reference: CSI/MMM/IMB

The above OUTLINE application should be refused for the following reasons:-

1. The proposed development would be contrary to the requirements of Policy RES5 of the Adopted East Ayrshire Local Plan, as it would have a detrimental impact on the character and amenity of the area.
2. The proposed development would be contrary to Policy RES 22 and the requirements of Schedule 4 of the Adopted East Ayrshire Local Plan as the site would be unable to accommodate a dwellinghouse with the necessary private open space and whilst retaining existing mature trees covered by a Tree Preservation Order.
3. The proposed development would be contrary to Policy ENV 15 of the East Ayrshire Local Plan as the scheme would have a detrimental impact on the mature trees within the application site that are covered by a Tree Preservation Order.
4. The proposed development would be detrimental to road safety by reason of its inability to provide a safe pedestrian access to the site.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**