

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 03 DECEMBER 2004

**04/0719/FL: PROPOSED HOUSING DEVELOPMENT (PHASE 4) OF 9
HOUSES, PARKING AREA AND SERVICES
AT VACANT GROUND, BURNTON ROAD, DALRYMPLE**

APPLICATION BY EASSDA LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of nine dwellinghouses as Phase 4 of the Burnton Road private residential development by the applicant. The site layout shows three groups of two storey terraced units which are positioned on the east boundary of the site with the proposed access forming a hammerhead turning off Burnton Road. Parking spaces are shown on the west side of the site and a swale and grassed area are also shown in the north west and south west corners of the site.

1.2 The proposed houses are to be two bedroom villas with a porch to the front elevation. External finishing materials are to be brown/grey roof tiles with white dry dash render and brown facing brick for the walls. It is proposed to make a connection to the public sewer to serve the development.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Section 75 Agreement with the applicants regarding the obligations referred to in Section 7.1 of this report.

3. SUMMARY OF ANALYSIS

3.1 As indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these

have been, or can be, sufficiently resolved so they would not indicate the current application should be refused.

3.2 The site in question has been identified in the Local Plan for a residential development of approximately four units. This allocation is however purely indicative and therefore the current proposal is considered acceptable in principle.

3.3 The design scheme for the proposed dwellinghouses is considered to be acceptable on the basis that the style of the units and the materials proposed are in keeping with many of the residential properties in the vicinity of the site. The standards as set out in Design Guidance 2: New Residential Development have all been complied with and the proposed development is considered to be acceptable in terms of visual and residential amenity.

3.4 With regard to infrastructure and services the developer has demonstrated that the road safety standards can be satisfactorily achieved and the developer shall be required to resolve the matter of drainage prior to any development commencing on the site.

3.5 The site is located in close proximity to the Primpton Burn which has been known to flood. However the site has previously been made up, as was done in Phases 1-3, and with the appropriate mitigation measures it is not considered that this would indicate the application should be refused.

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 in terms of the principle of the development, the application will require to be referred to the Development Services Committee because it would represent a significant departure from the development plan.

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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APPLICATION BY EASSDA LIMITED

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, due to it having attracted letters of objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a triangular area of ground measuring 0.32 hectare on the south side of the Burnton Road in the settlement of Dalrymple. At present the site comprises an area of unmaintained open space which has no significant features other than an existing sign for housing elsewhere in the village.

2.2 The site lies immediately west of an existing detached cottage known as "Whitegates" which takes access from an internal access through a recent residential development at Fulton Place. The Primpton Burn runs along the west boundary of the site and a garage lock up area lies to the north west. Two storey local authority houses, which front onto Seath Drive, lie to the south west of the site. Scrub self seeded trees form the boundaries of the site some of which is made up ground from the previous residential developments.

2.3 **Proposed Development:** Full planning permission is sought for the erection of nine dwellinghouses as Phase 4 of the Burnton Road private residential development by the applicant. The site layout shows three groups of two storey terraced units which are positioned on the east boundary of the site with the proposed access forming a hammerhead turning off Burnton Road. Parking spaces are shown on the west side of the site and a swale and grassed area are also shown in the north west and south west corners of the site.

2.4 The proposed houses are to be two bedroom villas with a porch to the front elevation. External finishing materials are to be brown/grey roof tiles with white dry dash render and brown facing brick for the walls. It is proposed to make a connection to the public sewer to serve the development.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Department of Education and Social Services has no objection to the proposed development.

Noted.

3.2 East Ayrshire Council Roads and Transportation Division has no objection to the proposed development subject to the following conditions:

- (i) access to the site must be taken via a standard single minor commercial access crossing to East Ayrshire Roads standards;
- (ii) junction visibilities of 2.5m by 70m (minimum) are required at the junction of the B742 Burnton Road and no fencing, buildings etc over 1m in height must be allowed within these areas;
- (iii) the junction with the B742 Burnton Road must be bituminously surfaced or paved for a minimum distance of 5m from the edge of the road to avoid overcarry of loose material onto the public road;
- (iv) a 2m wide footpath to East Ayrshire Roads specification, will require to be constructed along the frontage of the houses linking Burnton Road to Fulton Place with a section of pedestrian barrier at the B742 end. The new footpath would require to be lit and would be considered for adoption as public;
- (v) 9 number off road car parking spaces will require to be provided for the dwellings with a total of 6 visitors spaces (which should be individually designated);
- (vi) a turning area and bin storage area must be provided and delineated within the site parking area.

They have also advised that the swales/parking/turning area will require to be factored as they will not be considered for adoption.

Noted.

3.3 East Ayrshire Council Flooding Section requested additional information on the following matters:

- (i) the possible effect climate change would have on a 1 in 200 year flood event level at the Burnton Bridge and any necessity this may have to increase finished floor levels and air brick levels;

- (ii) the effect partial blockage of the Burnton Bridge will have on potential flood levels within the site;
- (iii) the pre and post development ground levels should be provided with an indication as to the potential loss of flood storage;
- (iv) access must be provided and maintained along the river bank for inspection and maintenance purposes.

Further to additional information being submitted by the consulting engineers, the Flooding section has advised they have no objection to the proposed development.

3.4 East Ayrshire Council Access Officer has been consulted but no response has been received at the time of writing this report.

Noted.

3.5 Scottish Water has objected to the proposed development whereby it proposes to drain to the public sewerage system. This is due to the cost of providing infrastructure to serve the development being outwith Scottish Water's "reasonable cost" obligation. They would remove their objection if the applicant:

- (a) bears the cost of the increase in capacity of Scottish Water's existing infrastructure to accommodate their development; and/or
- (b) promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system and which is in terms satisfactory to Scottish Water.

A note can be attached to any consent granted to advise the applicant to resolve this matter directly with Scottish Water.

3.6 The Scottish Environment Protection Agency has no objections in principle to the proposals provided the drainage arrangements are to its satisfaction and all foul drainage from the development must be connected to the public sewerage system. SEPA is seeking a condition requiring the applicant to obtain assurance from Scottish Water that the additional foul drainage arising from this development will not cause or contribute to premature operation of downstream consented storm sewer overflows. SEPA has also requested a condition requiring the applicant to install a surface water treatment system (SUDS).

Appropriate conditions and notes can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

3.7 Scottish Power has no objection to the proposed development.

Noted.

3.8 Transco has no objection to the proposed development.

Noted.

3.9 Dalrymple Community Council has been consulted but no response has been received at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 In addition to the objection from Scottish Water the application has attracted a letter of objection from a third party. The points of objection are summarised as follows:

4.2 The site plan is inaccurate and encroaches onto my land, specifically the south west boundary. The correct boundary recorded on the title deeds is a straight line continuation of footpath to front of 10 Fulton Place (with slight taper adjoining burn). The plan angles in (not straight from the path) and effectively steals my land.

The applicant has certified that they are the sole owners of the application site and have confirmed this also in writing. Notwithstanding this, the ownership of the site is not a material planning consideration that would indicate the application should be refused.

4.3 There is no provision shown to accommodate the right of way that has existed through the site for over 20 years. This must be incorporated.

The land at present is an area of unmaintained open space through which people can access Fulton Place from Burnton Road. However, this is not a formal or asserted right of way which has any materiality in the consideration of the application. Notwithstanding this, the layout of the site provides for a link footpath connecting the existing footpath on Burnton Road through the application site to connect to Fulton Place. This objection therefore has no weight in the determination of this application.

4.4 There is no physical boundary in place defining the actual extent of site 4. A fence must be erected as soon as possible on actual boundary agreed by me to prevent their workers and machinery entering my property without consent and to its detriment and damage. A complaint has already been made to your office about this and your site visit concurred sight of excavation and tracks on my land

prior to planning consent even being applied for. The damage has still not been made good. This is unacceptable breach of planning regulations.

The objector did indeed advise the Division that there had been some activity on the site. It was confirmed that vehicular tracks were evident and that trial pits had been dug. Neither of these activities constitute development under Section 27 of the Town and Country Planning (Scotland) Act 1997 and therefore no regulations have been breached. Should the objector consider that the developer has encroached on or has damaged land in his ownership, then this is a matter that the objector will require to resolve through legal processes. This objection therefore has no weight in the determination of the planning application.

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 There are no policies contained within the Structure Plan which are especially relevant to the proposed development.

East Ayrshire Local Plan

5.3 Policy RES1 states that the Council will encourage and support the residential development of those Development Opportunity Sites identified for housing purposes on the individual Local Plan maps.

The site proposed for residential development is one which has been identified in the Local Plan map for the development of around four houses. However, this allocation is purely indicative and subject to compliance with all other relevant policies the proposal is considered to be in compliance with Policy RES1.

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

The proposed site layout demonstrates that each plot can achieve a minimum of 70m² of private open space as required for terraced

house units in Schedule 4 of the Local Plan thereby complying with this policy.

5.5 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 been requested to make a contribution to the Sports, Leisure and Recreation Fund and confirmation has been received indicating that the developer is willing to make such a contribution.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the third party representation and the planning history of the site.

Consultations Responses

6.2 None of the consultation responses have raised any issues which could not be addressed and therefore would indicate the application should be refused. The objection from Scottish Water is a matter that the developer will be required to resolve directly with them.

Representations

6.3 The letter of objection does not raise any significant material planning considerations that are of sufficient weight to indicate the application should be refused.

Planning History

6.4 The current planning application has been made for the development of the fourth phase of a residential development at the former Silver Birch Caravan Park on the Burnton Road in Dalrymple. Phase 1 (Ref: 01/0623/FL) was approved in May 2003 for fourteen units; Phase 2 (Ref: 03/0932/FL) was approved in January 2004 for fourteen units and Phase 3 (Ref: 04/0477/FL) was approved in June 2004 for twenty-four units.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications will arise regarding the concluding of a Section 75 Agreement to secure the proposed developer contribution to the Sports, Leisure and Recreation Fund.

8. CONCLUSIONS

8.1 As indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these have been, or can be, sufficiently resolved so they would not indicate the current application should be refused.

8.2 The site in question has been identified in the Local Plan for a residential development of approximately four units. This allocation is however purely indicative and therefore the current proposal is considered acceptable in principle.

8.3 The design scheme for the proposed dwellinghouses is considered to be acceptable on the basis that the style of the units and the materials proposed are in keeping with many of the residential properties in the vicinity of the site. The standards as set out in Design Guidance 2: New Residential Development have all been complied with and the proposed development is considered to be acceptable in terms of visual and residential amenity.

8.4 With regard to infrastructure and services the developer has demonstrated that the road safety standards can be satisfactorily achieved and the developer shall be required to resolve the matter of drainage prior to any development commencing on the site.

8.5 The site is located in close proximity to the Primpton Burn which has been known to flood. However the site has previously been made up, as was done in Phases 1-3, and with the appropriate mitigation measures it is not considered that this would indicate the application should be refused.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a Section 75 Agreement with the applicants regarding the obligations referred to in Section 7.1 of this 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 in terms of the principle of the development, the application will require to be referred to the Development Services Committee because it would represent a significant departure from the development plan.

Alan Neish

Head of Planning, Development and Building Standards

19 November 2004

NM/NM/SMB

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).

Anyone wishing to inspect the above background papers should contact Nicola Monroe on 01563 555485.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 04/0719/FL

Location	Vacant Ground Burnton Road DALRYMPLE
Nature of Proposal:	Proposed housing development Phase 4, 9 houses, parking area and services
Name and Address of Applicant:	EASSDA Ltd 745 Antrim Road TEMPLEPATRICK BT39 0AP
Name and Address of Agent	Fleming Muir Architects 20 St. Quivox Road PRESTWICK KA9 1LJ

DPO's Ref: Nicola Monroe
PPO's Ref: Hugh Melvin

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 and location plan received on 21 July 2004 and the amended plans (00-32-09; 00-32-08REVA; 17REVA and 00-32-DJ55) received by the Planning Authority on 27 August 2004.

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

2. Prior to the commencement of development the developer shall submit to and have approved by the Planning Authority, a programme for the future management and maintenance of the areas shown as grassed; the swale; parking areas and turning areas.

REASON – To ensure that these communal areas are maintained in perpetuity.

3. Access to the site must be taken via a standard single minor commercial access crossing to East Ayrshire Roads standards (Fig 5.6 or 5.7 of Roads Development Guide 1996).

REASON – In the interests of road safety.

4. Prior to the occupation of any of the dwellinghouses hereby approved the developer shall form junction visibilities of 2.5m by 70m (minimum) at the junction of the B742 Burnton

Road and no object greater than one metre in height shall be allowed within these areas which shall be maintained in perpetuity to the satisfaction of the Planning Authority.

REASON – In the interests of road safety.

5. Prior to the occupation of any of the dwellinghouses the junction with the B742 Burnton Road must be bituminously surfaced or paved for a minimum distance of 5m from the edge of the road to avoid overcarry of loose material onto the public road to the satisfaction of the Planning Authority in consultation with the Roads and Transportation Division.

REASON – To ensure a secure road surface in the interests of road safety.

6. Prior to the occupation of any of the dwellinghouses hereby approved the developer shall construct a 2m wide footpath with appropriate street lighting to East Ayrshire Roads specification. This will require to be constructed along the frontage of the houses linking Burnton Road to Fulton Place with a section of pedestrian barrier at the B742 end.

REASON – In the interests of pedestrian safety.

7. Prior to the occupation of any of the dwellinghouses hereby approved the developer shall form nine number off road car parking spaces for the dwellinghouses and a total of six visitor spaces (which should be individually designated) to the satisfaction of the Planning Authority in consultation with the Roads and Transportation Division.

REASON – In the interests of road safety.

8. A turning area and bin storage area must be provided and delineated within the site parking area to the satisfaction of the Planning Authority. Details of these features shall be submitted to and approved by the Planning Authority prior to the occupation of any of the dwellinghouses hereby approved.

REASON – In the interests of road safety and residential amenity.

9. Prior to the commencement of development the developer shall submit a programme identifying that access shall be provided and maintained along the river bank for inspection and maintenance purposes and this programme shall include details of how this will be implemented in perpetuity to the satisfaction of the Planning Authority in consultation with East Ayrshire Council's Flooding section.

REASON – In the interests of public health and safety.

10. Those trees shown for retention on the plans hereby approved, shall be protected by the erection of a 1.2 metre chestnut pale fence located a distance from the tree trunks equivalent to the spread of the tree canopy. No materials shall be stored or placed or vehicles allowed to travel across the root systems so protected during the construction of the proposed houses.

REASON – In the interests of visual amenity.

Notes to Applicant

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Division can be contacted on Tel 01563 555330. The internal roads must comply with the Roads Development Guide 1996. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, internal junction visibilities etc.
2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site, (including capacity issues), and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements 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.

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