

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 03 DECEMBER 2004

**03/0412/FL: PROPOSED HOUSING DEVELOPMENT AT
MAIN STREET / MUIRKIRK ROAD, SORN**

APPLICATION BY GIBSON DEVELOPMENTS

**Supplementary Report by Head of Planning, Development and Building
Standards**

1. PURPOSE OF REPORT AND BACKGROUND

1.1 The purpose of this report is to present for determination a full planning application, which is to be reconsidered by the Local Planning Committee under the scheme of delegation as the developer has been unable to meet the terms of a proposed Section 75 Agreement following the decision by the Local Planning Committee in November 2003.

1.2 This application was first presented to Committee on 14 November 2003 and following a planning hearing on the proposed development, the Committee resolved to approve the application subject to appropriate conditions and the concluding of a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to secure the following matters:

- (i) The securing of visibility sightline splay areas at the junction of the site access with Main Street/ Muirkirk Road;
- (ii) The securing of access along the River Ayr boundary of the development site;
- (iii) The provision of a 2 metres wide footway from the new development to tie into the existing footway at Sorn New Bridge;
- (iv) a contribution to the Sports, Leisure and Recreation Fund.

1.3 Subsequent to the decision of the Committee, the applicant has attempted to secure the requisite visibility splay areas but as an agreement could not be reached with the landowner concerned, the developer advised that the terms of the proposed Section 75 Agreement could not be achieved relative to the visibility splay areas.

1.4 On 21 September 2004 following discussions with the Roads and Transportation Division, amended layout plans were submitted showing a revised access layout for the application site. The amended access and layout plan has been the subject of additional consultations and neighbour notification. This report comments on the amendments to the layout and the further information received from consultees. The original report is attached as an appendix to this report for reference.

2. AMENDED APPLICATION DETAILS

2.1 **Site Description:** The application sites lies on the south side of Main Street (B743 Sorn – Muirkirk Road) in Sorn and lies south of the junction of Main Street with Dalgain Drive. The site is bounded to the north by the B743 Road, by agricultural land to the east, by the River Ayr to the south and by existing residential properties on Main Street to the west. The amended application site has been extended to include the residential property at Woodlea and its curtilage.

2.2 The site is relatively flat and contains a significant number of mature and semi-mature trees. Although some of the trees are scattered within the site, they are to be found mainly along the northern and southern (River Ayr) boundaries of the application site. The site is also subject to The Dalgain (Sorn) Tree Preservation Order. The site extends to approximately 1.2 hectares and comprises the site of a former woolmill. The land is currently not in any productive use and is presently rough grazing land.

2.3 **Proposed Development:** Full planning permission is sought for a residential development consisting of 15 new dwellings on the application site as per the original plans for the site. The 15 new dwellings comprise 9 detached, two storey Type A houses (4 bedroom), 2 detached, traditional style one and a half storey Type B houses (4 bedroom), and 4 detached, one and a half storey dormer style Type B (Revised) houses (4 bedroom). All new dwellings will be finished with rendered walls, tiled roof finishes, and smooth cement bands to all window openings.

2.4 The amended layout plan for the development now proposes that the access road to the proposed development site will be taken between the residential properties at Woodlea and Shalom on Main Street. Part of the side and rear curtilage of Woodlea is to be used to provide a new access junction from Main Street into the residential development site. This allows for the provision of a full standard road with footpaths on either side. The developer owns the property at Woodlea and has a controlling interest on the property at Shalom.

2.5 As a consequence of the relocation of the proposed access point, minor alterations to the configuration of the plots are proposed. The proposal will also result in access to Woodlea being taken from the new residential road rather than Main Street as at present. Although some of the curtilage of Woodlea will be lost as a result of the amended access arrangements, sufficient land is available to meet the current requirements for private open space provision.

3. ADDITIONAL CONSULTATIONS AND ISSUES RAISED

3.1 Sorn Community Council has no objections to the amended proposals for the site

Noted.

3.2 East Ayrshire Council Roads and Transportation Division has indicated that it has no objections to the proposed amended layout subject to conditions. Junction visibilities of 2.5 metres by 90 metres are required at the junction of Main Street and no fencing, buildings etc over one metre in height will be allowed within these areas. A Section 75 Agreement with the owners of the hedge to the left hand side on exiting the development will be required to ensure that the hedge does not grow greater than one metre in height. Junction visibility splay areas of 2.5 metres by 35 metres will be required at all internal road junctions with no object greater than one metre in height allowed within these areas. Access to the site will require to be taken via internal access roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads and Transportation Division. This consent would cover details such as road widths, footways, road construction, street lighting drainage etc. Any existing public utility apparatus located in the verge will require to be protected beneath the proposed access. No surface water must be allowed to discharge onto the public road. Off road parking spaces in accordance with the Roads Development Guide 1996 will require to be provided for the dwelling. Any garages must be set back a minimum distance of 6 metres from the rear of the footway. Private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road. Any gates will require to open inwards, away from the public road. The developer is required to provide a 2 metres wide footway from the new development to tie into the existing footway at Sorn New Bridge as part of the Construction Consent. The developer is required to provide as part of the Construction Consent, drainage details and in particular the use of SUDS will require the approval of the Roads and Transportation Division and SEPA as part of the Construction Consent.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division. The obligations on the developer to provide adequate junction visibilities at the access from Main Street and the provision of the link footpath on Main Street can be secured by means of a Section 75 Agreement.

4. ADDITIONAL REPRESENTATIONS

4.1 Although further neighbour notification has been carried out on the amended proposals and all previous objectors have been advised of the changes and offered the opportunity of making further comments, no further representations have been received.

Noted.

5. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

5.1 There are no additional policy implications arising from the amended proposals and the terms of the original report remain the same.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the amended application are the additional consultation responses and the planning history of the site.

Consultations

6.2 The amended consultation responses have been summarised in Section 3 of this report with no significant adverse issues being identified that would suggest that the application be refused.

Planning History

6.3 A previous outline planning application (Ref. No.98/0395/OL) for residential development of this site was refused on 22 January 1999 as the principle of residential development on the site was contrary to policy.

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 through the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, with regard to the requirements contained within Section 8 of this report.

8. CONCLUSIONS

8.1 The proposed development is considered to be in accordance with the provisions of the Adopted East Ayrshire Local Plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application should be approved unless material considerations indicate otherwise. As indicated in section 6 of the report, there are material considerations relevant to this application but these do not indicate that the application should be refused.

8.2 In terms of the planning application, it is considered that the proposed layout, density and design of the development are acceptable and in accordance with the provisions of the Adopted East Ayrshire Local Plan. No significant issues were raised through the previous consultation process.

8.3 The proposed development was approved by the Southern Local Planning Committee on 14 November 2003 subject to appropriate conditions and the concluding of a Section 75 Agreement. The failure of the developer to secure part of the terms of the Section 75 Agreement relative to the requisite visibility sightline splay areas has led to the need to submit alternative amended proposals with regard to the site access. Further consultations have indicated that the amended site layout is acceptable, although it should be noted that a Section 75 Agreement would still be required in this regard. In addition no further representations have been received in this regard.

8.4 Consequently, it is recommended that the proposed development as amended should be approved subject to amended conditions and a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (i) The securing of visibility sightline splay areas at the junction of the site access with Main Street/ Muirkirk Road;
- (ii) The securing of access along the River Ayr boundary of the development site;
- (iii) The provision of a 2 metres wide footway from the new development to tie into the existing footway at Sorn New Bridge; and
- (iv) A contribution to the Sports, Leisure and Recreation Fund.

9. RECOMMENDATION

9.1 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet and that the decision notice not be issued until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8. 4 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, and should that decision be on the basis of the principle of housing development at this site, then the application will require to be referred to the Development Services Committee because there would be a significant departure from Council policy.

Alan Neish
Head of Planning, Development and Building Standards

19 November 2004
HM/HM/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).
7. Previous planning application 98/0395/OL
8. Minute of Southern Local Planning Committee of 14 November 2004

Any person wishing to inspect the background papers listed above should contact Mr Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Application No:
03/0412/FL

Location	Vacant Ground, Main Street/ Muirkirk Road, Sorn
Nature of Proposal:	Proposed housing development
Name and Address of Applicant:	Gibson Developments Per Agent
Name and Address of Agent	MCM Consultants Mansewood House East End LOCHWINNOCH PA12 4EP

DPO's Ref: []
] PPO's Ref:
[Hugh Melvin]

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

1. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to, and agreed in writing by the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site prior to the erection of any of the dwellinghouses located within the development site.

REASON – To ensure that adequate drainage is provided

2. Prior to the commencement of development on site, the applicant shall submit to, and have approved by the Planning Authority details of the proposed boundary treatment to the existing residential property at Woodlea to secure an area of private open space of not less than 100 square metres. This boundary treatment shall not prejudice any sightline requirements in respect of the new private access driveway for the existing dwelling.

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

3. Any domestic garages shall be set back a minimum distance of 6 metres from the rear of the footway.

REASON – In the interests of public road safety

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any other order or enactment replacing this, all detached domestic garages erected within the site shall have pitched roofs and be externally constructed in materials to match the dwellinghouses to which they relate.

REASON – In the interest of visual amenity

5. Notwithstanding the specification on the approved plans and before any work commences on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the Planning Authority and thereafter erected as approved.

REASON – In the interest of visual and residential amenity

6. Any screen fencing to be erected shall not project forward beyond the front building line of any of the dwellinghouses.

REASON – In the interest of visual amenity

7. No construction works, building or other operations shall take place on the site outwith the hours of 0800 to 1800 Monday to Saturday and not at any time on a Sunday.

REASON – In the interest of residential amenity

8. A landscaping scheme including details for the treatment and maintenance of the boundary of the site and areas of public open space shall be submitted to and approved by the Planning Authority prior to the commencement of any development on site. The landscaping shall be implemented not later than the next appropriate planting season after the development has been carried out. The landscaping shall be maintained in accordance with the approved maintenance regime at all times thereafter. No trees shall be removed without consent of the Planning Authority. The landscaping scheme shall provide for hedgerow or shrub planting to minimise the impact of timber fencing along the visible boundaries of the site.

REASON – To ensure that adequate landscaping is provided, to an adequate standard, and that it is subsequently maintained, in the interests of residential and visual amenity.

9. The applicant shall implement in full the measures recommended in the Tree Survey Report submitted with the planning application dated February 2003 to ensure the protection of trees within the development site during construction works.

REASON – To ensure protection of trees during construction work.

10. Notwithstanding the plans hereby approved the roofs of the dwellinghouses shall be covered in natural slates or a reconstituted slate tile of a type to be agreed in writing with the Council as Planning Authority prior to the commencement of works on site.

REASON – In the interest of visual amenity and to maintain the visual quality of the area

11. Any existing public utility apparatus located within the verge will require to be protected beneath the proposed access. No surface water shall be allowed to discharge onto the public road.

REASON – In the interests of public road safety

12. The access to each plot shall be by means of a standard footway crossover constructed in accordance with the East Ayrshire Council Roads Development Guide 1996.

REASON – In the interests of public road safety

13. All individual private driveways within the site shall be suitably surfaced for a minimum distance of 2 metres from the rear of the footway to ensure that no surface water discharges, or loose material is carried, out onto the public road.

REASON – In the interests of public road safety

14. Any access gates shall open inwards only, away from the public road.

REASON – In the interests of public road safety

15. Notwithstanding any specification on the approved plans or application form, two off road car parking spaces shall be provided for each dwelling, such provision to be made prior to the occupation of each respective dwelling.

REASON – In the interests of public road safety

16. Notwithstanding any specification on the approved plans or application form, and before any work is commenced on site, samples of all external finishing materials to be used in the proposed development shall be submitted to and agreed in writing by the Council as Planning Authority.

REASON – In the interests of visual amenity

17. Notwithstanding the submitted plans, visibility splay areas of 2.5 metres by 35 metres shall be provided at all internal road junctions within the site with no obstructions to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

18. Notwithstanding the submitted plans, and prior to the commencement of any development on site, visibility splay areas of 2.5 metres by 90 metres shall be provided at the junction of the access to the development with the B743 public road with no obstruction to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

NOTES TO APPLICANT

- (1) The applicant is advised to contact Scottish Water, 35 Glenburn Road, Prestwick, Ayrshire, KA9 2NS, with regard to water and drainage provision.
- (2) The applicant is advised to contact SEPA, 31 Miller Road, Ayr, KA7 2AX, Tel 01292 294000, regarding drainage of the site.
- (3) The developer shall make early contact with Scottish Water and the Scottish Environment Protection Agency to confirm their 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.
- (4) 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.

- (5) The applicant is advised to contact the Coal Authority, 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG, with regard to the mineral stability of the site.
- (6) The applicant is advised to contact East Ayrshire Council Roads and Transportation Division, Greenholm Street, Kilmarnock, KA1 4DR, with regard to securing necessary construction consents.

APPENDIX

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 14 NOVEMBER 2003

03/0412/FL: PROPOSED HOUSING DEVELOPMENT AT
MAIN STREET / MUIRKIRK ROAD, SORN

APPLICATION BY GIBSON DEVELOPMENTS

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application, which is to be considered by the Local Planning Committee under the scheme of delegation as the application is the larger application subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application sites lies on the south side of Main Street (B743 Sorn – Muirkirk Road) in Sorn and lies south of the junction of Main Street with Dalgain Drive. The site is bounded to the north by the B743 Road, by agricultural land to the east, by the River Ayr to the south and by existing residential properties on Main Street to the west.

2.2 The site is relatively flat and contains a significant number of mature and semi-mature trees. Although some of the trees are scattered within the site, they are to be found mainly along the northern and southern (River Ayr) boundaries of the application site. The site is also subject to The Dalgain (Sorn) Tree Preservation Order.

2.3 The site extends to approximately 1.2 hectares and comprises the site of a former woolmill. The land is currently not in any productive use and is presently rough grazing land.

2.4 **Proposed Development:** Full planning permission is sought for a residential development consisting of new dwellings on the application site.

2.5 The 15 new dwellings comprise 9 detached, two storey Type A houses (4 bedroom), 2 detached, traditional style one and a half storey Type B houses (4 bedroom), and 4 detached, one and a half storey dormer style Type B (Revised) houses (4 bedroom). All new dwellings will be finished with rendered walls, tiled roof finishes, and smooth cement bands to all window openings.

2.6 The access road to the proposed development site will be taken from its short frontage onto Main Street lying immediately east of the residential property at Woodlea. The site is to be developed in a linear fashion with all but two of the dwellings accessing onto the residential road. A twin hammerhead will be provided at the end of the access road and two dwellings will be accessed via a private lane.

2.7 The entrance to the site will be provided with a small feature wall and a small area of public open space will also be provided to the east of the site entrance. It is also proposed to locate a small pumping station for drainage purposes within this open space area. A further area of public open space is located adjacent to the proposed hammerhead.

2.8 The application is accompanied by a comprehensive Tree Survey Report with the information collated being used to influence the layout of the proposed development to ensure minimal impact on the trees subject to the Tree Preservation Order. The report recommends the felling of five trees and the pruning of eight trees, together with appropriate measures to be undertaken to protect the trees during construction works.

4. CONSULTATIONS AND ISSUES RAISED

3.1 Sorn Community Council has not responded to the consultation letter.

Noted.

3.2 The Coal Authority, Power Systems and Transco have no adverse comments to make on the proposal.

Noted.

3.3 Scottish Water has no objections to the proposed development. There is a public sewerage system to which a connection may be made from the proposed development. A totally separate drainage system of foul and surface water sewers will be required. It is further recommended by Scottish Water that the applicant must consider the implementation of Sustainable Urban Drainage Systems within the drainage design.

A note can be attached to any planning permission granted for the proposed development advising the applicant to make early contact with Scottish Water. The applicant has also submitted details of a Sustainable Urban Drainage System to be provided as part of the drainage proposals for the development site.

3.4 The Scottish Environment Protection Agency (SEPA) has advised that all foul drainage from the proposed development should be connected to the existing public sewer to the satisfaction of Scottish Water. SEPA recommends that the proposed pumping station has at least 12 hours storage capacity and

is fitted with both pump failure and high level alarms. Any emergency overflow facility incorporated in the pumping station and discharging to the River Ayr will require the consent of SEPA. The development should entail the use of dual manholes for connections to the existing sewerage system, not only in the public sewers but within the curtilage of each house. Surface water should be kept separate from foul drainage. SEPA welcomes the installation of SUDS for the attenuation and treatment of surface water prior to its discharge to the nearby watercourse.

A note can be attached to any planning permission granted for the proposed development advising the applicant to make early contact with SEPA. A condition can be attached to any permission granted for the proposed development to meet SEPA's requirements with regard to an appropriate SUDS arrangement within the site to attenuate and treat surface and roof water run-off.

3.5 East Ayrshire Council Roads and Transportation Division has indicated that it has no objections to the proposed development subject to conditions. Junction visibilities of 2.5 metres by 90 metres are required at the junction of Main Street and no fencing, buildings etc over one metre in height will be allowed within these areas. A Section 75 Agreement with the owners of the hedge to the left hand side on exiting the development will be required to ensure that the hedge does not grow greater than one metre in height. Junction visibility splay areas of 2.5 metres by 35 metres will be required at all internal road junctions with no object greater than one metre in height allowed within these areas. Access to the site will require to be taken via internal access roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads and Transportation Division. This consent would cover details such as road widths, footways, road construction, street lighting drainage etc. Any existing public utility apparatus located in the verge will require to be protected beneath the proposed access. No surface water must be allowed to discharge onto the public road. Off road parking spaces in accordance with the Roads Development Guide 1996 will require to be provided for the dwelling. Any garages must be set back a minimum distance of 6 metres from the rear of the footway. Private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road. The developer is required to provide as part of the Construction Consent, drainage details and in particular the use of SUDS will require the approval of the Roads and Transportation Division and SEPA as part of the Construction Consent.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division. The obligations by the developer to provide adequate junction visibilities at the access from Main Street and the provision of the link footpath on Main Street can be secured by means of a Section 75 Agreement.

3.6 East Ayrshire Council Roads and Transportation Division (Flooding Section) has highlighted the potential risk of flooding of the site due to the proximity of the River Ayr. The Section has indicated that the information provided by the applicant is insufficient to properly assess the potential flood risk to the site from the River Ayr and the Dalgain Burn and therefore a full study must be undertaken. Any proposed flood alleviation measures must be designed to ensure that there are no future maintenance issues or cost implications for the Council under current legislation. Access for inspection of the River Ayr along the development frontage must be incorporated into the layout of the site.

The applicant has been made aware of the comments of the Flooding Section and is presently undertaking a full flood risk assessment for the site. An appropriately worded condition can be imposed should planning permission be granted to ensure that a full and professionally prepared flood risk assessment is submitted to and approved in writing by the Council prior to works commencing on site and that those works address as necessary the requirements of the assessment.

It is considered that the requirements of the Roads and Transportation Division in respect of access along the River Ayr can be secured with the developer through a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997.

4. REPRESENTATIONS

4.1 Six letters of representation have been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 The application for 15 dwellinghouses represents a significant increase in the number of houses in Sorn and raises issues for the school. At present the school is near full capacity, albeit some pupils coming from outside the Sorn area. Construction of a significant number of houses in a short space of time will result in new local children finding they cannot be accommodated at the school. The rate of construction should take into account the availability of places at the school in subsequent years.

It is reasonable to assume that, should the proposed development be granted planning permission and implemented, a number of households would contain children of primary school age. It should be noted that there would be no guarantee that children of primary school age will be able to be accommodated at Sorn Primary School in the future. In the event of accommodation being unavailable for pupils at Sorn Primary School, the Education Authority would require to maintain its statutory duties by re-directing pupils to alternative provision in the area. For this

reason it is inappropriate to restrict the rate of implementation of the development to the availability school places.

4.3 The development should be designed such that the house designs, housing density and associated landscaping are in keeping with the character of the village, for example emphasis on single or one and a half storey houses rather than two storey villas.

It is considered that the density and layout of the proposed development is acceptable. In terms of design, the proposed dwellings are not full two storey dwellings and reflect a more traditional one and a half storey style with wall head dormers.

4.4 The suggested use of wooden fences should be reconsidered. Although this provides instant privacy, the interests of the village and new residents may be better served by the use of hedges. Efforts should be made to minimise the visual impact for neighbours by retaining existing trees where possible and planting of new trees.

It is considered that the use of fencing is generally acceptable in this instance. However, it would be appropriate to additionally require a degree of landscape planting to soften the visual impact of boundary fencing. A condition can be attached to any consent granted for the proposed development to meet this requirement. A comprehensive tree survey has been undertaken in respect of the site and the proposals have been designed to avoid conflict with trees within the development site. The report does however recommend the felling of 5 trees and the pruning of a further 8 trees. A condition can also be attached to any consent granted for the proposed development to secure the planting of replacement trees in the interests of visual amenity.

4.5 I have always been of the opinion that the Muirkirk Road site would be an asset to the village and would support this application if the conflict with the village school capacity is addressed. The planning permission should limit the number of house completions in any calendar year.

See response to 4.2 above.

4.6 At this time I have a pleasant rural south facing view, one of my reasons for purchasing my property. I would not wish to see this disturbed or worsened by residential development. This includes concerns of sunlight and shade being worsened. I have concern over buildings overlooking my property infringing on my privacy.

The potential loss of a view is not a material planning consideration in the determination of this application. The proposed development is considered to comply with the Council's

Design Guidance and it is not considered that overshadowing or privacy will be significant in terms of layout or design.

4.7 This area is currently rural in nature with mature trees and plants and natural ground. This would be badly affected by any planned development. In the rural surroundings of Sorn, it is objectionable to see an area such as this destroyed by residential development.

The site has been included within the Adopted East Ayrshire Local Plan as a site identified for housing development. The principle of the development of the site for housing purposes has therefore been established.

4.8 Local service infrastructure would be highly impacted by any proposed development.

The consultation process has not substantiated the view of the objector as no significant service or infrastructure issues have been raised.

4.9 The increase in traffic risk would be a concern as traffic already approaches Sorn from the Muirkirk side often at great speed. Another access road would greatly increase this risk.

The Roads and Transportation Division, subject to securing appropriate visibility sightlines at the access, offers no objection to the proposed development on road safety grounds.

4.10 At this minute this area of land provides a degree of natural protection from any potential flooding from the River Ayr. With a residential development in this area this would raise the potential for future flooding in this area.

The applicant is presently undertaking a full flood risk assessment for the site. An appropriately worded condition can be imposed should planning permission be granted to ensure that a full and professionally prepared flood risk assessment is submitted to and approved in writing by the Council prior to works commencing on site.

4.11 The B743 to which the development will have access is a major cause for concern due mainly to the high volume of works traffic coming from Tincornhill Quarry. The Dalgain Bridge located some 350 metres from the access was replaced some four years ago with the bridge being 1 metre wider to accommodate the improvement of the stretch of road between the village and the exceptionally dangerous corner where road traffic accidents takes place. This upgrade has not been started and no notification of work is imminent.

The comments of the objector are not pertinent to the determination of this application.

4.12 The village has various building plots that have not been utilised and therefore demand has shown that no new buildings are required within the village. The development of a housing scheme within the village of Sorn is not required for anything other than personal gain.

The site has been included within the Adopted East Ayrshire Local Plan as a site identified for housing development. The principle of the development of the site for housing purposes has therefore been established.

4.13 The new site which borders my land has a Tree Preservation Order covering all trees along the border between my own land and that of the new scheme. I have been advised that building works adjacent to these trees will cause root damage and decay. I will not give permission for any trees to be felled or pruned to accommodate the development.

A comprehensive tree survey has been undertaken in respect of the site and the proposals have been design to avoid conflict with trees within the development site. The report does however recommend the felling of 5 trees and the pruning of a further 8 trees. A condition can also be attached to any consent granted for the proposed development to secure the planting of replacement trees in the interests of visual amenity. The granting of planning permission does not prejudice the legal rights of the objector.

4.14 The previous application to develop this site was refused with one of the main points raised being lack of adequate sewerage facilities. The village recently had an upgrade on the sewerage system although the release of raw sewage into the River Ayr from the upgraded facility is currently causing concern.

Neither Scottish Water nor SEPA have raised any concerns regarding the drainage of the site.

4.15 The re-instatement of the mature trees at the corner boundary previously cut down by the owner illegally and the erection of my hen huts will seriously impair the visibility requirements for safe access egress from the site. The planning application shows a pumping system situated at the entrance to the proposed development. The area highlighted on the plan is in fact within the boundary of my land and I do not intend to grant permission for any work located in this area.

The comments of the objector are noted. The applicant will require to secure the requisite visibility sightlines through a Section 75 Agreement. The erection of hen huts at this location would require planning consent. The granting of planning permission does not prejudice any alleged legal rights of the objector.

4.16 One must surely question the logic of any planning initiative contemplating development at a point in time when the village is without a post office, shop or surgery and the local school appears to have attained its optimum placement number.

The site has been included within the Adopted East Ayrshire Local Plan as a site identified for housing development. The principle of the development of the site for housing purposes has therefore been established and could be viewed as beneficial in terms of supporting the future introduction of community services.

4.17 In July 1998 I formally objected to an earlier proposal for a housing development on this site. It was my understanding that the decision reached could only be set aside by the Secretary of State for Scotland. More recently I received a communication from the Head of Legal Services informing me that the Council will be undertaking a review of housing supply and demand during 2004. Why has the Council been persuaded to accelerate the review process in favour of Gibson Developments?

The present application site was included as part of the housing land supply for Sorn by the Reporter appointed by the Scottish Ministers to conduct a Public Local Inquiry into objections received to the East Ayrshire Local Plan. This local plan was formally adopted by the Council on 11 April 2003.

5. ASSESSMENT AGAINST THE 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 (1999) and the Adopted East Ayrshire Local Plan (2003).

East Ayrshire Local Plan (2003)

5.2 The proposed development requires to be assessed against the following policies of the Adopted East Ayrshire Local Plan:

(i) Policy RES1: The Council will encourage and support the residential development of the Development Opportunity Sites identified for housing purposes on the individual Local Plan maps. The sites identified will be reserved for residential and associated recreational and amenity open space development.

The Sorn Local Plan map identifies a Development Opportunity Site with a capacity of 10 houses at the Main Street site. The

principle of housing development at this location therefore accords with the Adopted Local Plan. The proposed development will result in a total of 15 dwellings and this is in excess of the notional capacity indicated within the adopted East Ayrshire Local Plan. However, it is considered that the density of the proposed development is acceptable given that the layout of the proposed development meets with the requisite private and public open space standards set out in the adopted Local Plan. A small part of the application site lies outwith the identified Development Opportunity site, representing an area of land within the ownership of the applicant. However no development is proposed on this area.

(ii) Policy RES 19: The Council will require all housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. Developers will be expected to pay due regard to the indicative standards set out in Schedule 3 of the Local Plan in preparing their proposals, although the precise type, size, location and design of the open space will be dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

Although the proposed layout provides for a small amount of open space provision, open space provision for developments of less than 30 housing units is at the discretion of the Council and should take account of existing open space provision in the vicinity of the site. A significant area of public open space lies immediately to the north west of the application site that also incorporates an area of active recreational open space. In this respect it is considered that the proposed development does not conflict with the provisions of Policy RES 19.

(iii) Policy RES 22: All developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

The appropriate private open space standard detailed in Schedule 4 of the Local Plan is one and a half times the ground floor area (subject to a minimum amount of open space of 100 square metres) for detached and semi-detached houses. All the proposed new dwellings comply with these private open space standards.

(iv) Policy ENV15 states that the Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire. In particular the Council will amongst other things:

- (i) strongly encourage the protection and positive management of remaining areas of ancient and semi-natural woodland. The retention of existing hedgerows and any proposals for new hedgerow planting will be supported, and
- (ii) protect those individual, groups and areas of trees which contribute significantly to the landscape quality of both the built and rural environment through the serving of Tree Preservation Orders.

The proposed development site is subject to a Tree Preservation Order. However a comprehensive tree survey has been undertaken in respect of the site and the development proposals have been designed to avoid conflict with trees within the development site. The report does however recommend measures for the management of the trees in the interests of safety. This includes the felling of 5 trees and the pruning of a further 8 trees. The report also promotes measures for the protection of trees during construction works and ongoing arboricultural management of the site. A condition can also be attached to any consent granted for the proposed development to secure the planting of replacement trees.

- (v) 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.

A formal response from the applicant in respect of this matter has not yet been received.

Ayrshire Joint Structure Plan

- 5.3 There are no policies contained in the structure plan that are especially relevant to the proposed development.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

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

Consultations

- 6.2 The consultation responses have been summarised in Section 3 of this report with no significant adverse issues being identified that would suggest that the application be refused.

Representations

6.3 Several of the points of objection can be addressed by the imposition of appropriately worded conditions should planning permission be granted. Consequently, it is considered that the points of objection are not of sufficient weight to justify refusal of the application.

Planning History

6.4 A previous outline planning application (Ref. No.98/0395/OL) for residential development of this site was refused on 22 January 1999 as the principle of residential development on the site was contrary to policy.

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 through the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, with regard to the requirements contained within Section 8 of this report.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the proposed development is considered to be contrary to the provisions of the Adopted East Ayrshire Local Plan. Therefore, given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the planning application should be refused unless material considerations indicate otherwise. As indicated in section 6 of the report, there are material considerations relevant to this application.

8.2 In terms of the planning application, it is considered that the proposed layout, density and design of the development is acceptable and in accordance with the provisions of the Adopted East Ayrshire Local Plan. No significant issues have been raised through the consultation process.

8.3 With regard to the representations received, it is considered that where valid on planning grounds, these can be adequately addressed through the imposition of appropriate conditions on any consent granted for the development. Other points of objection, particularly in terms of the principle of the proposed development, are not considered to be pertinent or of sufficient weight to justify refusal of the application.

8.4 Consequently, it is recommended that the proposed development should be approved subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (iii) The securing of visibility sightline splay areas at the junction of the site access with Main Street/ Muirkirk Road;
- (iv) The securing of access along the River Ayr boundary of the development site;
- (v) The provision of a 2 metres wide footway from the new development to tie into the existing footway at Sorn New Bridge;

9. RECOMMENDATION

9.2 It is recommended that the application should be approved subject to the conditions indicated on the attached sheet and that the decision notice not be issued until the Solicitor to the Council has concluded a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8. 4 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, and should that decision be on the basis of the principle of housing development at this site, then the application will require to be referred to the Development Services Committee because there would be a significant departure from Council policy.

Alan Neish
Head of Planning and Building Control
05 November 2003
HM/HM/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).
7. Previous planning application 98/0395/OL

Any person wishing to inspect the background papers listed above should contact Mr Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No:
03/0412/FL

Location	Vacant Ground, Main Street/ Muirkirk Road, Sorn
Nature of Proposal:	Proposed housing development
Name and Address of Applicant:	Gibson Developments Per Agent
Name and Address of Agent	MCM Consultants Mansewood House East End LOCHWINNOCH PA12 4EP

DPO's Ref: []
] PPO's Ref:
[Hugh Melvin]

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

1. There shall be no commencement of the development hereby approved on site until such time as a full and professionally prepared flood risk assessment has been submitted to and agreed in writing by the Head of Planning and Building Control, the contents of which shall confirm the following:-

(a) that the development hereby approved shall not be adversely affected by any 1 in 200 year flood event; and

(b) that the development hereby approved shall not result in any adverse flooding effects off-site in the event of a 1 in 200 year flood event.

Should it be the case that to avoid the adverse effects referred to above there has to be further development work on site not currently known or agreed, this work will require to be the subject of the further separate written consent of the Council as Planning Authority.

REASON – To ensure that no development works are undertaken which will either be adversely affected by flooding or will adversely affect land off-site by reason of flooding.

2. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to, and agreed in writing by the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site prior to the erection of any of the dwellinghouses located within the development site.

REASON – To ensure that adequate drainage is provided

3. Any domestic garages shall be set back a minimum distance of 6 metres from the rear of the footway.

REASON – In the interests of public road safety

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any other order or enactment replacing this, all detached domestic garages erected within the site shall have pitched roofs and be externally constructed in materials to match the dwellinghouses to which they relate.

REASON – In the interest of visual amenity

5. Notwithstanding the specification on the approved plans and before any work commences on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the Planning Authority and thereafter erected as approved.

REASON – In the interest of visual and residential amenity

6. Any screen fencing to be erected shall not project forward beyond the front building line of any of the dwellinghouses.

REASON – In the interest of visual amenity

7. No construction works, building or other operations shall take place on the site outwith the hours of 0800 to 1800 Monday to Saturday and not at any time on a Sunday.

REASON – In the interest of residential amenity

8. A landscaping scheme including details for the treatment and maintenance of the boundary of the site and areas of public open space shall be submitted to and approved by the Planning Authority prior to the commencement of any development on site. The landscaping shall be implemented not later than the next appropriate planting season after the development has been carried out. The landscaping shall be maintained in accordance with the approved maintenance regime at all times thereafter. No trees shall be removed without consent of the Planning Authority. The landscaping scheme shall provide for hedgerow or shrub planting to minimise the impact of timber fencing along the visible boundaries of the site.

REASON – To ensure that adequate landscaping is provided, to an adequate standard, and that it is subsequently maintained, in the interests of residential and visual amenity.

10. The applicant shall implement in full the measures recommended in the Tree Survey Report submitted with the planning application dated February 2003 to ensure the protection of trees within the development site during construction works.

REASON – To ensure protection of trees during construction work.

10. Notwithstanding the plans hereby approved the roofs of the dwellinghouses shall be covered in natural slates or a reconstituted slate tile of a type to be agreed in writing with the Council as Planning Authority prior to the commencement of works on site.

REASON – In the interest of visual amenity and to maintain the visual quality of the area

11. Any existing public utility apparatus located within the verge will require to be protected beneath the proposed access. No surface water shall be allowed to discharge onto the public road.

REASON – In the interests of public road safety

12. The access to each plot shall be by means of a standard footway crossover constructed in accordance with the East Ayrshire Council Roads Development Guide 1996.

REASON – In the interests of public road safety

13. All individual private driveways within the site shall be suitably surfaced for a minimum distance of 2 metres from the rear of the footway to ensure that no surface water discharges, or loose material is carried, out onto the public road.

REASON – In the interests of public road safety

14. Any access gates shall open inwards only, away from the public road.

REASON – In the interests of public road safety

15. Notwithstanding any specification on the approved plans or application form, two off road car parking spaces shall be provided for each dwelling, such provision to be made prior to the occupation of each respective dwelling.

REASON – In the interests of public road safety

16. Notwithstanding any specification on the approved plans or application form, and before any work is commenced on site, samples of all external finishing materials to be used in the proposed development shall be submitted to and agreed in writing by the Council as Planning Authority.

REASON – In the interests of visual amenity

17. Notwithstanding the submitted plans, visibility splay areas of 2.5 metres by 35 metres shall be provided at all internal road junctions within the site with no obstructions to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

18. Notwithstanding the submitted plans, and prior to the commencement of any development on site, visibility splay areas of 2.5 metres by 90 metres shall be provided at the junction of the access to the development with the B743 public road with no obstruction to visibility greater than 1 metre in height being allowed within these areas thereafter.

REASON – To enable drivers of vehicles within the site to have a clear view over a length of road sufficient to allow safe usage

NOTES TO APPLICANT

- (1) The applicant is advised to contact Scottish Water, 35 Glenburn Road, Prestwick, Ayrshire, KA9 2NS, with regard to water and drainage provision.
- (2) The applicant is advised to contact SEPA, 31 Miller Road, Ayr, KA7 2AX, Tel 01292 294000, regarding drainage of the site.

- (3) The developer shall make early contact with Scottish Water and the Scottish Environment Protection Agency to confirm their 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.
- (4) 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.
- (5) The applicant is advised to contact the Coal Authority, 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG, with regard to the mineral stability of the site.
- (7) The applicant is advised to contact East Ayrshire Council Roads and Transportation Division, Greenholm Street, Kilmarnock, KA1 4DR, with regard to securing necessary construction consents.