

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 26 JANUARY 2007

**06/0817/FL: ERECTION OF 12 DWELLING HOUSES AT 18 AUCHINLECK
ROAD, CUMNOCK**

APPLICATION BY EASSDA HOLDINGS

Report by Head of Planning, Development and Building Standards

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the residential development of the site to accommodate 12 detached dwellings taking access from an extension of the public road of Kyle Court. The proposal would involve the demolition of the existing dwellinghouse and removal of a number of trees. The applicant has developed a unique proposal which utilises the steeply sloping ground to maximise the potential view across the countryside whilst stepping each unit into the sloping ground creating the impression of a 1.5 storey dwelling from the high side of what is a 2 storey dwellinghouse when viewed from the down hill elevation, with the exception of plots 6 & 7 which are proposed as two storey.

1.2 All of the proposed house types include an integral garage within the lower section of the dwelling. The proposed external wall finishes of the dwellings are red facing brick, white roughcast and red cedar wooden panelling detail whilst the roofs are proposed to be finished in grey roof tiles.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 69 of the Local Government (Scotland) Act 1973 with the applicants in respect of the matter detailed in Paragraph 7.1 of this report and payment in that regard has been received.

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.

3.2 The residential development of this site which lies between Auchinleck Road and Kyle Court has raised concerns from adjacent neighbouring properties and a number of valid planning grounds have been noted. However, the principle of residential development of this site is acceptable in terms of compliance with the Adopted East Ayrshire Local Plan 2003. The development is of a density that meets both the public open space provision and the minimum private open space requirement and in most of the proposed plots almost doubles this requirement. It is further considered that the concerns raised within the representations can be adequately addressed through the imposition of conditions on any consent granted. These would ensure the development incorporated an extensive and mature landscaping scheme especially around the site perimeter to allow for a good level of natural screening whilst ensuring good levels of privacy to the immediate adjacent properties. In addition the site in its current condition benefits from a good level of natural screening from Auchinleck Road and to assist in reducing the impact of the development of the site this will be continued and intensified in places.

3.3 The application proposed is for a high quality design and development of a vacant area of ground within the Cumnock settlement boundary. Details including design sketches accompanying the application indicate that the dwellings proposed have been specifically designed around the site conditions especially with regard to the topography. This allows the properties to be stepped, following the natural lie of the land whilst taking advantage of the views across the surrounding countryside. It is proposed in the details within the cross section drawings (PL-04) that instead of building the dwellings at current ground level an area of ground will be cut away to provide a lower platform to ensure the dwellings integrate with the sloping ground. In this regard the developer is proposing a relatively unique scheme which is specifically tailored to the topography of the application site.

3.4 The application site is largely undeveloped and has been this way for some time. The development of this site will greatly improve the visual and general amenity of this area given the present vacant scrubland and presence of a decaying derelict building.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, and such decision is in terms of the principle of housing development on this site, the application will require to be referred to the Development Services Committee because it would be 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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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 the scale of the proposed development and as it is subject to letters of objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site comprises of an area of largely vacant land extending to approximately 0.71 hectares in size, located to the north-west of Cumnock and positioned between Kyle Court within the Holmhead Estate and Auchinleck Road. The site comprises the unoccupied dwellinghouse of 18 Auchinleck Road which is in a poor condition both inside and out showing signs of extensive vandalism although it is visible that attempts have been made to make the property secure. A disused fire damaged garage lies to the west of the dwellinghouse with an area of hard standing to the front and rear sections of the house. The majority of the rest of the site is overgrown with a number of significant mature trees occupying and masking the house from passing traffic on Auchinleck Road, four of which are statutorily protected by a Tree Preservation Order. The ground lying to the north of the dwellinghouse is relatively steep in gradient and again is largely overgrown. A grouping of large conifers is established within the middle of the site. From here the ground gently rises to the post and wire fence bounding the road at Kyle Court to the west of the site. To the north and outwith the application site the land is bounded by the steeply sloping ground of a former bing.

2.2 The application site bounds existing dwellings of different sizes and designs between those found along Kyle Court which are mostly bungalows and Auchinleck Road which has a mix of bungalows and traditional two storey properties, two of which nearby are listed buildings. When viewing the site from this position on Auchinleck Road the traditional boundary wall and mature Laurel

Hedge almost running the length of the site are important features along with the mature trees within the front garden area.

2.3 Proposed Development: Full planning permission is sought for the residential development of the site to accommodate 12 detached dwellings taking access from an extension of the public road of Kyle Court. The proposal would involve the demolition of the existing dwellinghouse and removal of a number of trees. The applicant has developed a unique proposal which utilises the steeply sloping ground to maximise the potential view across the countryside whilst stepping each unit into the sloping ground creating the impression of a 1.5 storey dwelling from the high side of what is a 2 storey dwellinghouse when viewed from the down hill elevation, with the exception of plots 6 &7 which are proposed as two storey.

2.4 All of the proposed house types include an integral garage within the lower section of the dwelling. The proposed external wall finishes of the dwellings are red facing brick, white roughcast and red cedar wooden panelling detail whilst the roofs are proposed to be finished in grey roof tiles.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Cumnock Community Council has not responded to the consultation letter at the time of writing this report

Noted.

3.2 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the following road safety requirements being met:

- (i) Access to the site shall require to be taken via internal roads which comply with the Roads Development Guide 1996 and require Construction Consent from East Ayrshire Council Roads and Transportation Division. This consent would cover details such as road widths, footways, road construction, street lighting, drainage etc. Traffic calming in accordance with the Development Guidelines shall be required on both the new section of road and the existing section of Kyle Court.
- (ii) No surface water shall be allowed to discharge onto the public road
- (iii) Off road car parking spaces in accordance with the Roads Development Guide 1996 shall require to be provided for the development.
- (iv) Any garages shall be set back a minimum distance of 6m from the rear of the footway.
- (v) The private driveways shall require to be paved or bituminously surfaced over the full width for a minimum distance of 2m from the rear of the footway to avoid the overcarry of loose material onto the public road.

- (vi) Any gates shall open inwards away from the public road.
- (vii) The developer shall close off the existing access onto Auchinleck Road to vehicular traffic and provide a footway link to Auchinleck Road.
- (viii) The developer shall provide a grit bin at a suitable location to be agreed.
- (ix) Road drainage details and in particular the use of SUDS shall require the approval of East Ayrshire Council 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.

3.3 Scottish Water has not objected to the proposal, stating that the Afton Water Treatment Works currently has sufficient capacity to service this proposal; however a totally separate drainage system will be required with the surface water discharging to a suitable outlet.

Noted.

3.4 Power Systems has no adverse comments to make on this application.

Noted.

3.5 Scottish Gas Networks has no adverse comments to make on this application.

Noted.

3.6 Scottish Natural Heritage has been consulted as it was brought to the attention of the Planning Authority, through local objection, that bats are present within the site and in particular occupying the derelict dwellinghouse. Bats are afforded protection in terms of the following legislation and guidance and are classified as a European Protected Species:

:

- EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (Habitats Directive),
- Conservation (Natural Habitats &c.) Regulations 1994 and
- Regulations 10 and 13 of the Conservation (Natural Habitats &c.) Amendment (Scotland) Regulations 2004.
- Scottish Executive Interim Guidance of European Protected Species, Development Sites and the Planning System, 2001

This means it is illegal to:

- Deliberately or recklessly kill, injure, disturb or capture/take European Protected Species of animal or deliberately or recklessly harass any cetacean
- Damage or destroy the breeding sites or resting places of such animals

SNH advises that where it is proposed to carry out works which will affect European Protected Species or their shelter/breeding places, a license is required from the Scottish Executive. However prior to obtaining any license the Planning Authority in compliance with Regulation 3 contained within the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna has requested that the applicant carry out and submit a detailed Bat Assessment of the site including the dwellinghouse. Following this assessment SNH has been consulted on the findings and has formally concluded that it has no objection to the proposed development as submitted and provides the following detailed comments:

- The proposal is for the construction of 12 dwelling houses on a site which currently has one dwelling in a poor state of disrepair. Roosting brown long eared bats have been identified within the building during the bat survey, carried out on 09 November 2006. SNH advises that the loss of this feeding roost is unlikely to have an adverse impact on the favourable conservation status of the species. However the installation of an alternative roost site for the bats as described in its advised condition will ensure roosting potential in this site is maintained.
- SNH is content with the comprehensive Bat Survey Report and Assessment and would not request any further survey work except prior to work commencing on site to ensure no bats are present.
- SNH endorses the proposals for mitigation enclosed in the report for the conversion of the garage and has discussed this with the applicant. The report states that no chemical should be used for timber treatment. There are a number of 'bat friendly' chemicals suitable for timber treatment. The list has been provided to the applicant and we would have no objection to a product contained within this list being used to treat the timber. The provision of this new roost shall be in place prior to the demolition of the property.
- SNH would encourage the planting of some native shrubs and trees on the opposite side of the road to proposed plot 8 to provide enhanced habitat corridor from the roost to potential foraging areas.
- As the location is identified as a place of shelter for European protected species, a license from the Scottish Executive must be applied for and approved before the demolition of this bat roost.

- In addition the impact of the development could be further reduced by conditions and SNH recommend the following:
 - (i) An alternative roost site for the bats should be provided within the proposed development area prior to the demolition of the dwelling containing the roost.

The above condition accompanied by additional mitigation measures to ensure the bats are protected can be imposed on the consent if the Committee is minded to approve the application.

3.7 East Ayrshire Council Environmental Health Division has no objections to the principle of residential development of the site however request that the following is considered in terms of ground stability:

- If the development does involve ground works in the vicinity of the bing there may be the potential for exposure to unknown fill material, which could pose a risk to site users and adjacent residents. If ground works are required which affect the bing an investigation of the composition of the bing material would be required.

The application site does bound with ground towards the bottom of the bing therefore a suspensive condition will be attached to any consent granted ensuring that a ground composition/contamination investigation is carried out and forwarded to the Planning Authority prior to any ground works commencing on site. However issues such as ground stability and further ground investigation would be addressed as part of the Building Standards remit and would be required for any building warrant application.

4. REPRESENTATIONS

4.1 The planning application has attracted six third party letters of representation (9 signatories) raising a variety of issues. The main points of objection are summarised as follows:

4.2 The development would severely overlook the properties on Auchinleck Road infringing on the residents privacy. As the plot is on an elevated piece of land this aspect seems to be accentuated. I would like to object to invasion of privacy as the proposed houses would overlook directly down into both bedrooms of my house.

The objector is referring to the properties located on the opposite side of Auchinleck Road to the application site. In this case it would be very difficult to justify any overlooking issues primarily due to the

distances from the proposed houses to those existing on Auchinleck Road approximately 32m at the closest sections. Furthermore any overlooking would be restricted by the four trees remaining and the introduction of a further planting scheme, which would be conditioned to any consent granted, would further assist in reducing the impact of housing on this site.

4.3 Auchinleck Road is mainly older style houses and any new development would not be in keeping.

Although Auchinleck Road has a number of traditional older buildings some of which are of significant importance being listed buildings, there has also been some more recent developments taking place such as the Cumnock Swimming Pool which is located across the road and within a short distance from the application site. It is not perceived that the proposed development will adversely affect the current traditional style of Auchinleck Road as only two dwellings are proposed to follow the building line of Auchinleck Road and are considered to be of an appropriate style and design. Access to all the dwellings will be via the access road from Kyle Court which is a development of more modern dwellings.

4.4 The plot of land does not seem adequate to house 12 new dwellings.

The application site has been assessed with respect to the requirements detailed in Schedules 3 and 4 of the Adopted East Ayrshire Local Plan 2003. These schedules state the minimum requirements for public amenity space and private open space (garden ground). The site layout plan shows compliance with such requirements and each plot provides in most cases more than double the minimum requirement for private open space. This accompanied by the fact that the layout is not considered as a high density development would suggest that the site is adequately capable of accommodating the proposed 12 dwellings.

4.5 Any building works would cause a huge amount of disruption to surrounding residents and the local network of roads whether traffic is directly using Kyle Court as access or the smaller and far more dangerous access on Auchinleck Road.

The residential development of the application site will undoubtedly have some form of short term disruption to the immediate surroundings in terms of construction traffic and associated building noise. However this is largely unavoidable with any form of development. However, a condition can be attached to any consent granted limiting the construction hours in order to ensure the

protection of residential amenity. A condition can also be attached to ensure that during construction no vehicular access is taken via Auchinleck Road.

4.6 I suggest that no building should be constructed any closer to the main road than the existing building as shown on the attached sketch.

The current dwellinghouse occupying the site is positioned approximately 30m back from the edge of the public road. The closer of the two proposed houses are noted as being approximately 17m from the edge of the public road. Although this is closer to Auchinleck Road than the existing dwellinghouse, the proposed two dwellings will not encroach past the current and adjacent building line. This coupled with the requirement to safeguard four mature trees in front of the existing house will reduce the impact of the development on Auchinleck Road.

4.7 I suggest that the development be in keeping with the existing houses in the area in both appearance and design.

The proposed dwelling houses have been individually designed for this specific site mainly due to the topography of the site and in maximising the views over the surrounding countryside. As the land slopes relatively steeply towards Auchinleck Road the dwellings are proposed to be stepped over two levels. This will give the appearance of a two storey dwelling from one elevation and a single storey dwelling from the other. The surrounding house types along Auchinleck Road and Kyle Court are a mix of single storey bungalows and large two and in some instances three storey dwellings. It is clear that a significant amount of time has been spent developing a house design that is tailored to the topography of the site and it is not considered that this will adversely impact on the surrounding properties.

4.8 The concentration of the intended houses are half the area of existing houses in Kyle Court resulting in gross over concentration of houses.

As noted in section 5 of this report the level of housing proposed within this site is not considered as an 'over concentration' as all of the proposed units can more than meet the required level of private open space and provide an adequate level of public open space all in compliance with the Council's Local Plan Policies.

4.9 My objections are noise and dust and general upheaval during construction as I have to work shifts regularly.

As noted above in the comments provided in section 4.5 of the report, during the construction period there will be a level of disturbance to the immediate neighbouring properties. However a condition can be attached to any consent granted to control the hours of construction in order to protect nearby residential amenity. It would not be reasonable to preclude construction during day time hours.

4.10 Whilst agreeing in principle to the application I would respectfully submit the retention of the trees bordering my property to allow at least some sort of privacy and also to retain some environmental policy in this area of the town.

The objector in this instance is referring to the property located adjacent to the site on Auchinleck Road in which a large section of mature trees within the front garden are designated as protected under a Tree Preservation Order. From the amended site plan the trees along this boundary are noted as being retained 'if possible'. However the section to the west of the site is open with no laurel hedge present, an extensive landscaping plan is considered important to balance the frontage along Auchinleck Road whilst establishing a further level of privacy to the neighbouring property. This requirement for an extensive landscaping plan can be conditioned to any consent if the committee is minded to grant approval.

4.11 The site plan fails to show the position and nature of trees to be felled. This excludes possible examination by tree officer under BSI regulation. Approx 56-100 trees involved. The exclusion of the tree felling of the site plans excludes details being passed to the appropriate tree officer.

This point was referred to the applicant's agent who has submitted as part of the amended site plan details of trees to be felled or retained. Approximately 27 trees have been identified within the application site area not including the large conifers to the rear of the existing house. In addition, the Council's own Arboriculture Officer in conjunction with the Planning Division visited the site and examined all mature trees. From this examination it was considered that four trees were worthy of protection under a Tree Preservation Order. These four trees are located to the south of the site closer to Auchinleck Road. This new designation was considered important in keeping some mature tree cover along Auchinleck Road in which a number of tree preservation orders exist. This information was subsequently passed to the agent who has taken this into account in the site layout. The amended site layout plan now identifies all the trees which will be retained (inc. all four TPO's) and those which will be retained if possible. It is the Planning Authority's view that a

further extensive planting scheme will be required through the imposition of conditions, if the committee are minded to grant approval, in order to help maintain a continuation of tree cover along Auchinleck Road and to provide a level of screening as exists at present.

4.12 I also object to any mature trees being sacrificed for this development.

The Council have recently visited the site and undertaken a detailed assessment of the trees within the application site area. Resulting from this assessment four mature trees have been granted Tree Preservation Status. This protection status will ensure the retention of these four trees. However in addition the Planning Authority will seek to condition any approval granted to ensure that a further extensive landscaping scheme be introduced in which both semi mature trees and shrubs will be planted.

4.13 The application states the intent to use existing roads to access the highway. There is no existing access from Kyle Court due to the blocking effect of the area of land between Kyle Court and the proposed site, which only leaves the current access road to 18 Auchinleck Road. This is a steep winding single lane road which exists onto a blind corner. According to the plans all the new houses will be equipped with at least two parking spaces, meaning any access road will be used by at least 24 cars. This is totally impracticable as this current road is down right dangerous. A trained police officer was involved in accident on this road in recent months.

The site plan shows the proposed route of vehicular access via the existing road of Kyle Court. The plans show a new proposed section of road adjoining the existing public road of Kyle Court and leading to a turning head to allow all 12 houses access, therefore negating the need to use the existing access onto Auchinleck Road which the objector correctly points out is very dangerous with sub standard visibilities in both directions. This proposed extension to Kyle Court has not received any objections from the Council's Roads and Transportation Division whose comments are noted in section 3.2 of this report.

4.14 According to the plans 18 Auchinleck Road will cease to exist, however according to your own web site there has been no application made by Easda to demolish the building of 18 Auchinleck Road.

As 18 Auchinleck Road is not a listed property and is not located within the Cumnock Conservation Area there would be no requirement to submit a separate planning application for the demolition as the proposal forms part of the current application.

However a Building Warrant would require to be in place prior to any demolition works commencing on site.

4.15 The junction at Holmhead Road is already becoming a cause of traffic congestion and any further developments in this estate would only increase the traffic using these roads.

The Roads and Transportation Division has assessed this application and have raised no adverse issues with regard to road safety issues as a result of this development (see section 3.2 of this report).

4.16 Clarification is required in regards to land ownership as there is no mention of Eassda owning this land in the Land Registry Records.

The applicant has declared within the planning application forms that the application site is owned by Eassda Holdings. This information must be accepted in good faith unless specific evidence to the contrary is provided and is sufficient in the submission of this planning application.

4.17 On building type ES-05 the west elevation will have under building of brick approx 3.5m and two windows approx 4.5m above ground level allowing occupants to view into my garden, patio, and conservatory/lounge from above. Therefore I would request these windows be of an obscure glass.

The two windows referred to by the objector form the proposed utility room and dining/kitchen windows. As correctly stated these do face west towards the adjacent property on Auchinleck Road. However as noted within the site layout plan the full length of this boundary is to be screened by a close boarded 1.8m high wooden fence. This type of boundary treatment incorporated with an extensive planting scheme would reduce any issues of overlooking.

4.18 The road at Kyle Court is not contiguous with the site boundary and is therefore not an existing access.

Noted. Within the site layout plan the access to the site is shown via the existing public road of Kyle Court. This issue was passed to the applicant's agent who has clearly stated in an amended site plan that the site boundary encompasses this area and all access will be via Kyle Court.

4.19 The detailed plan in any event shows a 1.5m fence drawn straight across the site boundary contiguous with the 'ransom strip'.

The objector makes reference to the proposed boundary treatment along the western edge of the site; this has been noted as a 1.8m high boarded timber fence. However on both the original and amended site plan the proposed access point has no note of fencing present. Furthermore the objector refers to a 'ransom strip' along this boundary. The applicant has certified full ownership of this area of ground and has included this with the red line site boundary on the submitted location plan (LOC-01).

4.20 The two houses proposed at the north easterly corner of the plan/site would stand approx 40/50 feet above the adjacent nos.8 and 10 Auchinleck Road. The degree to which overlooking would be inevitable completely deprives these pre-existing dwellings of any privacy.

In this section of the site the land rises steeply from the rear of the properties along Auchinleck Road, two of which back directly onto the area of the proposed two houses referred to above. However when measuring the window to window distance these are in fact in excess of the minimum requirement of the Council of 18m; furthermore the only window on the closest elevation is that of a toilet. However the point is taken regarding the difference in heights and as shown on the site plan a retaining wall is proposed along this sloping section. In addition the developer is proposing an evergreen tree screen along this section of ground directly to the rear of number 10 Auchinleck Road which in addition to a further planting scheme as part of the conditions to any consent granted would assist in reducing the impact of the difference in heights.

4.21 It has become the habitat for an extraordinary variety of hedgehogs, moles, bats, an amazing number of bird species, particularly in the wild cherry coppice, rare butterflies in the lower marshy slopes behind number 10. To find any untouched field habitat close to housing and town would be virtually impossible.

The objector has raised an important point with respect to the natural habitats present within this area of vacant ground. Due to the range of species which have been suggested are present within the application site and as bats are a European Protected Species, the applicant is required to carry out a detailed Bat Assessment of the site to ensure that in this case the bats if found to be present are not in any way harmed by the development proposal.

The applicant has carried out an in depth Bat Assessment in line with the requirements set out in the Nature Conservation (Scotland) Act 2004. This report indicates that there are bats present within the current derelict house and mitigation measures would be required to

be in place prior to the disruption / commencement of development. In consultation with SNH on the findings of this report the Planning Authority is satisfied that the bats within the site can be protected by a range of measures identified within the report and in discussions with SNH. The Bat Report makes reference to mitigation measures including the conversion of the existing dilapidated garage to replace the roost in the current dwellinghouse. This would allow the dwelling to be demolished whilst providing an alternative roost for the bats. However this is dependant on an application made to and a license granted from the Scottish Executive prior to any works commencing on site.

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 (1999) 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 this application.

Noted.

East Ayrshire Local Plan

5.3 Policy RES4 states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

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

It is considered that housing development at this location would have a minimal impact on the surrounding natural and built environment as it is proposed adjacent to an existing residential area.

(ii) transportation and infrastructure implications;

The consultation responses received highlight no issues resulting from this proposal.

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

The layout shows higher density housing than surrounding housing areas but it is considered that the site can accommodate this number of units.

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

It is considered that the proposal complies with the Council's Design Guidance relating to New Residential Development. In particular, as the site is within a prominent location, the house design has been developed around the site conditions (slope towards Auchinleck Road). Although the house design to the lower side of the slope is of 2 storey in nature it is not considered to be overbearing or look out of place in its surroundings.

5.4 Policy RES19 requires all housing developers to provide areas of recreational and amenity open space in their developments to the indicative basic standards set out in Schedule 3 of the Local Plan. The policy states also that the precise type, size, location and design of the open space required is dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area.

An area of land to the east and south of the site would remain undeveloped as amenity open space. It shall be ensured that this area is attractively landscaped and that a long term maintenance agreement is in place.

5.5 Policy RES22 requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

All plots are noted as having in excess of the Council's minimum private open space standards some providing more than double the area required and therefore the proposal shows compliance with this policy.

5.6 Policy TLR5 requests that all developers of residential sites comprising four or more houses enter into a Section 75 Agreement with the Planning Authority for contributions towards the provision of appropriate leisure and recreational facilities within the area to which the development relates.

The developer has agreed in writing to make a financial contribution to the SLR Fund, however a specific amount has not been determined as of yet.

5.7 The principle of the development at this location is considered to be acceptable in terms of the Development Plan.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultations Responses

6.2 None of the consultation responses received have indicated that the recommendation should be one of refusal. Subject to the imposition of appropriate conditions on any consent granted for the proposed development, it is considered to be acceptable.

Planning History

6.3 The application site has recently been subject to two outline planning applications both made by the same applicant. One application was proposing the erection of 12 detached houses and access road (ref: 06/0159/OL). This was formally withdrawn on 4th May 2006. In conjunction with this an application was submitted for the demolition of the existing building and erection of two detached houses and double garage. This similarly was formally withdrawn at the request of the applicant on 4th May 2006.

Third Party Representations

6.4 The third party letters of representation all show clear concerns for the development of this site, however it would seem that not all are objecting to the principle of the residential development but rather to the associated issues such as construction disturbance, overlooking, difference in land heights; all issues that are of material consideration in the determination of this application. These issues have been discussed in section 4 of this report and it is concluded that the representations involving valid planning grounds can be addressed with the imposition of appropriate conditions on any consent granted. On balance, the representations received are not of sufficient weight to justify refusal of the application.

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 the developer to enter into a Section 69 Agreement under The Local Government (Scotland) Act 1973 to secure the developer contribution to the Council's Sports, Leisure and Recreation fund. The developer has agreed to make a financial contribution to the above fund, the amount of which is still to be agreed.

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.

8.2 The residential development of this site which lies between Auchinleck Road and Kyle Court has raised concerns from adjacent neighbouring properties and a number of valid planning grounds have been noted. However, the principle of residential development of this site is acceptable in terms of compliance with the Adopted East Ayrshire Local Plan 2003. The development is of a density that meets both the public open space provision and the minimum private open space requirement and in most of the proposed plots almost doubles this requirement. It is further considered that the concerns raised within the representations can be adequately addressed through the imposition of conditions on any consent granted. These would ensure the development incorporated an extensive and mature landscaping scheme especially around the site perimeter to allow for a good level of natural screening whilst ensuring good levels of privacy to the immediate adjacent properties. In addition the site in its current condition benefits from a good level of natural screening from Auchinleck Road and to assist in reducing the impact of the development of the site this will be continued and intensified in places.

8.3 The application proposed is for a high quality design and development of a vacant area of ground within the Cumnock settlement boundary. Details including design sketches accompanying the application indicate that the dwellings proposed have been specifically designed around the site conditions especially with regard to the topography. This allows the properties to be stepped, following the natural lie of the land whilst taking advantage of the views across the surrounding countryside. It is proposed in the details within the cross section drawings (PL-04) that instead of building the dwellings at current ground level an area of ground will be cut away to provide a lower platform to ensure the

dwellings integrate with the sloping ground. In this regard the developer is proposing a relatively unique scheme which is specifically tailored to the topography of the application site.

8.4 The application site is largely undeveloped and has been this way for some time. The development of this site will greatly improve the visual and general amenity of this area given the present vacant scrubland and presence of a decaying derelict building.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions indicated on the attached sheet, but that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 69 of the Local Government (Scotland) Act 1973 with the applicants in respect of the matter detailed in Paragraph 7.1 of this report and payment in that regard has been received.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, and such decision is in terms of the principle of housing development on this site, the application will require to be referred to the Development Services Committee because it would be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards

RG/HM/RG
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Previous applications 06/0159/OL & 06/0224/OL
7. Independent Bat Survey and Assessment undertaken on the applicant's behalf by Heritage Environmental Ltd.

Anyone wishing to inspect the above background papers should contact Mr Ghosh on 01563 555483.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0817/FL

Location	18 AUCHINLECK ROAD, CUMNOCK
Nature of Proposal:	ERECTION OF 12 DWELLING HOUSES
Name and Address of Applicant:	EASSDA HOLDINGS LOCHLIBO ROAD, NEAR IRVINE
Name and Address of Agent	MGP ARCHITECTS CATHCART HOUSE, 20 CATHCART STREET AYR

DPO's Ref: Robin Ghosh
PPO's Ref: Hugh Melvin

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

1. The proposed development shall be carried out in accordance with the application form and plans received by the Planning Authority on 21 August 2006, the Bat Survey and Assessment received by the Planning Authority on 07 December 2006, the site cross-section plan (ref: PL-04), house plans (ref: PL-05A) and the amended site layout plan (ref: PL-03 Rev. E) all received by the Planning Authority on 13 December 2006.

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

2. Construction works and associated deliveries on site shall not be carried out prior to 0800 hours and after 1700 hours Mondays to Saturdays and not at any time on Sundays.

REASON: To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

3. An alternative roost site for the bats as identified in the Bat Survey and Assessment shall be provided within the proposed development area prior to the demolition of the dwelling containing the roost. Details of this alternative roost shall be submitted to have the written approval of the Planning Authority, in conjunction with Scottish Natural Heritage, prior to the commencement of any development or site clearance works.

REASON: To ensure the appropriate safeguarding of a European Protected Species.

4. Prior to the commencement of any works affecting the existing dwellinghouse at 18 Auchinleck Road and in particular the identified bat roost, an application for a license to

remove the roost shall be made and awarded by the Scottish Executive. Details of this license shall be submitted to the Planning Authority in advance of any development or site clearance works commencing on site.

REASON: To ensure the appropriate safeguarding of a European Protected Species.

5. Prior to the commencement of any development works on site, a ground composition and contamination report shall be submitted to and approved by the Planning Authority in conjunction with the Council's Environmental Health Division. The report shall confirm the measures to be taken to address any adverse ground conditions.

REASON: In the interests of public health and safety.

6. No site clearance or building operations shall be commenced until chestnut pale fencing of a height no less than 1.2 metres has been erected around the four trees shown on the approved plans as having a Tree Preservation Order and around any other trees or hedges confirmed by the landscape plan (Condition 7) as being retained. The fencing shall enclose either:

- (a) the area described by the limit of the spread of the branches of the tree; or
- (b) a radius of 5 metres from the trunk of the tree,

whichever is the greater.

REASON: To ensure the trees identified as having a Preservation Order and other important planting are adequately safeguarded and protected from damage during construction on the site in the interests of visual amenity.

7. Prior to the commencement of development, the applicant shall have submitted to and received the written consent of the Planning Authority for a detailed landscaping plan for the development of the site. The plan shall provide details of the numbers, species and sizes of trees and shrubs to be planted as core structure planting within the development site. This plan shall include an extensive planting screening and continuation of the existing laurel hedgerow along the boundary wall of Auchinleck Road. This shall be of a similar variety and height to the existing hedge and utilise where possible the existing Laurel Hedge which branches away from the road in a north direction. Further extensive planting is required along the western boundary of the site specifically within plot 9 and on the area of ground to the south of plot 7, in order to reduce the visual impact of the proposed dwellings and safeguard an appropriate level of privacy to those existing dwellings at a lower level. The submitted information shall include details of the timing of the provision of all the foregoing as well as proposals for the future maintenance of these areas.

REASON: In order to establish a level of continuity along the Auchinleck Road boundary and reduce the visual impact of the development.

8. Notwithstanding the submitted plans the southern boundary wall of the site (as shown in yellow on the approved plan) fronting onto Auchinleck Road shall be retained along the full length of the application site. Details of the method of closing the existing entrance onto Auchinleck Road and any repair work to the existing wall shall have the prior written approval of the Planning Authority and shall be implemented prior to the occupation of any of the houses hereby approved.

REASON: In the interests of preserving the traditional boundary treatment and visual amenity.

9. Notwithstanding the submitted plans, the external wall and roof coverings are not hereby approved. Details/samples of the external wall and roof finish of the dwellings shall be submitted to and approved by the Planning Authority before any development commences on site.

REASON: In the interests of visual amenity.

10. Notwithstanding the submitted plans, the window units are not hereby approved. Details of the proposed window units shall be submitted to and approved by the Planning Authority before any development commences on site.

REASON: In the interests of visual amenity.

11. No surface water shall be allowed to discharge onto the public road.

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

12. Any garages shall be set back a minimum distance of 6m from the rear of the public footpath.

REASON: To avoid obstruction on the public highway in the interests of road safety.

13. Notwithstanding the submitted plans any gates shall open inward away from the public road.

REASON: In the interests of road safety.

14. The existing access road onto Auchinleck Road shall be closed to vehicular traffic with a footway link provided onto Auchinleck Road. Details of this shall be submitted to for approval by the Planning Authority, in consultation with the Roads Authority, within two months of development commencing on site. The footway link shall be provided prior to the occupation of any of the houses hereby approved.

REASON: In the interests of road and public safety.

15. A grit bin shall be provided within the application site at a suitable location to be agreed with the Planning Authority, in consultation with the Roads Authority.

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

16. The private driveways shall be paved or bituminously surfaced over the full width for a minimum distance of 2m from the rear of the footway to avoid the overcarry of loose material onto the public road.

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

17. Off road car parking spaces shall be provided and be in accordance with the Roads Development Guide 1996

REASON: To ensure sufficient off road car parking in the interests of road safety.

18. Prior to the commencement of development the developer shall submit to and have received written approval from the Planning Authority for, the details of the Sustainable Urban Drainage system (SUDs) to be installed. These details shall specify a programme for the future management and maintenance of the scheme. The details shall also include measures to

address surface water run-off from the proposed development site to prevent discharging onto adjacent residential properties both during and following construction works on site.

REASON: To ensure an appropriate means of surface water runoff in the interests of public health and safety.

19. Notwithstanding the submitted plans and in addition to the fencing shown on the site layout plan a 1.8m high close boarded wooden fence shall be erected along the length of the site boundary to the south of plot 9.

REASON: In the interest of safeguarding the existing residential amenity.

20. Notwithstanding the submitted plans the wooden screen fencing shall be stained a suitable dark brown colour.

REASON: In the interests of visual amenity.

21. Notwithstanding the submitted plans the applicant shall submit details clarifying the relationship between the proposed finished ground floor levels of the dwellings located on plots 6, 7, 8 and 9 and the existing ground levels of the adjacent dwellings located at nos. 8, 10 and 40 Auchinleck Road. This information shall be submitted to the Planning Authority for written approval prior to any construction works commencing on site.

REASON: In the interests of residential amenity.

22. Notwithstanding the submitted plans the full length of Kyle Court shall remain both in a clean condition, free from any construction debris with all construction, delivery and workers vehicles being contained within the application site.

REASON: To ensure that the public road surface is not adversely affected by the development and any associated construction traffic is contained within the site in order to safeguard the residential amenity of Kyle Court.

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 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.

4. The applicant should make early contact with Power Systems and Transco with regard to the protection or diversion of apparatus that may be affected by the proposed development.

5. All waste to be removed from the site (construction waste etc.) shall be removed by a licensed waste carrier to an appropriately licensed or exempted site.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**