

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 28 JANUARY 2005

**04/0699/FL: PROPOSED RESIDENTIAL DEVELOPMENT
ON LAND AT ROBERT BURNS AVENUE, DRONGAN**

APPLICATION BY G & S HOMES

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for Phases 2 and 3 of the residential development at Robert Burns Avenue. Phase 2 comprises seven dwellinghouses, three of which are detached three-bedroom bungalows and the remaining four are three-bedroom, two storey semi-detached houses. Phase 3 comprises twelve semi-detached dwellinghouses, four of which are four-bedroom units and the remaining are three-bedroom units. All of the houses are to have white render finish with buff facing brick to the external walls and grey concrete interlocking tiles for the roof finish.

1.2 Access into the site would be taken off the existing internal access road to Phase 1 of the development. A cul-de-sac is to be formed for Phase 2 and a turning circle is to be formed at the end of the internal road into Phase 3. A sizeable area of open space is to be formed around this turning circle. A one metre high post and wire fence is to form the boundary with hawthorn bushes along the most northerly edge. It is proposed to make a connection into the public sewer for foul drainage.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed 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 7.1 of this report.

3. SUMMARY OF ANALYSIS

3.1 As indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate

otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, however it is considered that these have been and can be satisfactorily addressed and therefore would not indicate the application should be refused.

3.2 The proposal is for the erection of nineteen dwellinghouses to form Phases 2 and 3 of a residential development for which Phase 1 (ten units) is almost complete. This is a site which has been identified in the development plan for such development, albeit at a higher density. The proposal is therefore acceptable in principle and the issues to be considered are therefore design related and to ensure that the appropriate level of services and facilities can be achieved.

3.3 The site layout is consistent with the surrounding residential developments which have taken place and the design of the houses is also considered to be in keeping with the neighbouring built environment. Each of the plots has sufficient private open space and there are no visual or residential amenity issues arising.

3.4 The Neighbourhood Services Department has objected to the proposed development. Phase 3 of the development is on land immediately to the west of the existing cemetery which that department understood to be in Council ownership to facilitate a future extension of the cemetery. Land immediately north of the cemetery has also been identified for an extension to the car park which serves the cemetery. The development however is consistent with the Local Plan designation which is supportive of housing and does not safeguard the site for any other purpose. Therefore, the recommendation must be one of approval subject to appropriate conditions.

CONTRARY DECISION NOTE

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

Alan Neish
Head of Planning, Development and Building Standards

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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APPLICATION BY G & S HOMES

Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation, due to it having attracted objections. Members will recall considering this application at the meeting on 03 December 2004 and the application was continued to enable a site visit to take place. The report has also been amended to provide updated information from the Council's Legal Services Section regarding land ownership issues.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises two areas of land totalling 0.96 hectare on the north edge of the settlement of Drongan. At present the site is primarily meadowland which is bounded by a wild hedgerow but has no other significant features.

2.2 One portion of the site, Phase 2, is sandwiched between Phase 1 of the residential development (Ref: 03/0547/FL) which was approved by the Local Planning Committee on 14 November 2003, and the B730 public road from Coalhall to Drongan. Drongan Cemetery lies immediately north of this area with the other portion of the site. Phase 3, lying west of this on slightly rising ground. An open area of ground pertaining to Hannahston Farm is on the north side of Phase 3. The recent residential development at Margaret Drain Crescent lies west of this.

2.3 **Proposed Development:** Full planning permission is sought for Phases 2 and 3 of the residential development at Robert Burns Avenue. Phase 2 comprises seven dwellinghouses, three of which are detached three-bedroom bungalows and the remaining four are three-bedroom, two storey semi-detached houses. Phase 3 comprises twelve semi-detached dwellinghouses, four of which

are four-bedroom units and the remaining are three-bedroom units. All of the houses are to have white render finish with buff facing brick to the external walls and grey concrete interlocking tiles for the roof finish.

2.4 Access into the site would be taken off the existing internal access road to Phase 1 of the development. A cul-de-sac is to be formed for Phase 2 and a turning circle is to be formed at the end of the internal road into Phase 3. A sizeable area of open space is to be formed around this turning circle. A one metre high post and wire fence is to form the boundary with hawthorn bushes along the most northerly edge. It is proposed to make a connection into the public sewer for foul drainage.

3. CONSULTATIONS AND ISSUES RAISED

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

- (i) the internal roads must comply with the Roads Development Guide 1996 as per the Construction Consent granted by East Ayrshire Roads Department on 08 March 2004 for the whole site;
- (ii) two number off road parking spaces will require to be provided for each 2/3 bedroom dwelling, three off road parking spaces shall require to be provided for each 4/5 bedroom dwelling and 0.25 visitor's spaces per dwelling as shown on the submitted plan;
- (iii) any garages must be set back a minimum distance of 6m from the rear of the footway;
- (iv) the private driveways will require to be paved for a minimum distance of 2m from the rear of the footway;
- (v) any gates will require to open inwards away from the proposed public road;
- (vi) no surface water must be allowed to discharge onto the proposed public road.

These road safety requirements can be imposed as conditions on the consent should the Committee be minded to approve the application.

3.2 East Ayrshire Neighbourhood Services Department has stated an objection to Phase 3 of the development on the basis of the disputed ownership of the site; their understanding being that the Council had acquired the site to facilitate a future extension to Drongan Cemetery.

It is understood that there is currently a legal dispute between the Council and the stated owner of the application site in terms of land ownership. The stated owner for the purposes of this application is believed to be claiming prescriptive rights to ownership and that is a

matter on which an independent legal opinion has now been sought. Notwithstanding this, the application site has been identified as a Residential Development Opportunity Site in the East Ayrshire Local Plan. Albeit this objection is noted it is not considered to be of relevance in planning terms and is one that will be resolved by separate legal processes. For the purposes of this application, the applicant has reaffirmed that their ownership certificate is correct thereby enabling proper determination of the proposal.

Further to this an independent opinion has been given as regards the ownership of the site. This has concluded that the Council are indeed the rightful owners of the land subject to no further valid evidence being produced by the other contesting party. That party is currently seeking to produce such evidence.

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

Noted.

3.4 Scottish Water has advised there is an existing public water main located in the street adjacent and there is a public sewerage system to which a connection may be made from the proposed development. They have advised that a totally separate drainage system of foul and surface water sewers will be required. They have recommended that the applicant must consider the implementation of a Sustainable Urban Drainage system within the proposed drainage design.

A note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with Scottish Water regarding the drainage of the site.

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

A note can be attached to any consent granted for the proposed development to advise the applicant to make early contact with SEPA regarding the drainage of the site.

3.6 Scottish Power has formally objected to the granting of planning permission on the undernoted grounds:

- The proposed development and use may interfere with the X Route 132kV overhead transmission line. If the proposal proceeds, it is essential to Scottish Power's operations that statutory safety clearances are maintained and that Scottish Power have access to the apparatus. Where work is being carried out in the vicinity of an overhead line it must be in accordance with Health and Safety Guidance Note GS6 "Avoidance of Danger from Overhead Lines".

Scottish Power has requested that this is treated as a holding objection until the possible effects of the development are known and been discussed in full and resolved to the satisfaction of Scottish Power.

The developer has been advised of this objection and has confirmed that no buildings, other erections or land formations are to be placed underneath or within a distance laterally of 40ft from the middle of the electricity lines. It is therefore considered acceptable to impose an appropriate condition on the consent should the Committee be minded to approve the application.

3.7 Drongan, Rankinston and Stair Community Council has been consulted but no response had been received at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 In addition to the objections from Scottish Power and East Ayrshire Neighbourhood Services Department, the application has attracted one letter of objection from a third party and this can be summarised as follows:

4.2 I object to the proposed development for the erection of nineteen dwellings on the grounds of access and the volume of road traffic that this will create. At the moment work is underway to construct ten dwellings, this will make 29 in total for just small access road.

The proposed development has been the subject of a consultation with the Roads and Transportation Division. The Division has found the proposals, which have the benefit of Construction Consent for the whole of the development, to be acceptable in terms of road safety and the likely impact on the local road network. This

objection, whilst material, is not considered to be of sufficient weight to indicate that the application should be refused.

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 relevant to this application.

East Ayrshire Local Plan

5.3 Policy RES1 encourages and supports the residential development of those Development Opportunity Sites identified for housing purposes on the individual Local Plan maps and reserves them for residential and associated recreational and amenity open space development.

The application site comprises part of Housing Development Opportunity Site 079H as identified in the adopted East Ayrshire Local Plan. The proposal is therefore in accordance with Policy RES1 and DRONGAN 1(i) of the Local Plan and there are no objections in principle to the proposal from the planning policy point of view.

5.4 Policy RES20 states that, in formulating their development proposals, developers should ensure that the provision of open space should meet seven stated criteria, as follows:

- (i) that areas of open space are of a size and configuration that is easily maintainable. The policy advocates that larger areas of well located, consolidated open space should be provided in preference to a series of smaller, individual areas scattered throughout the proposed development site;

The open space provision complies with this element of the policy.

- (ii) that proposed areas of open space link, wherever possible, with other areas of adjacent existing open space;

There are no other areas of existing open space in the immediate vicinity with which it would be appropriate to link the open space provision proposed.

- (iii) that the proposed areas of open space are safe and secure, overlooked if possible by adjacent properties;

The area of open space is situated around the turning circle at the end of the internal road access and is immediately adjacent to properties with a post and wire fence to the other boundary.

- (iv) that play areas, kick about areas and games pitches are provided as required by the Council's Head of Leisure Services;

It is considered that there are sufficient amenities within the village not to require specific facilities within the open space provision proposed.

- (v) that play equipment and facilities for the disabled and those with special needs are provided as considered appropriate;

Comments as per above.

- (vi) that areas of open space are attractively planted and, where appropriate, use plant species to encourage wildlife; and

The developer shall be required to submit a landscaping scheme for the area of open space that shall include a programme for its future management and maintenance.

- (vii) that all open spaces are provided, as appropriate, with footpaths for both access and leisure walking, linking with adjacent open spaces wherever possible.

The area of open space is located adjacent to a footpath that does link into the existing footpath network in the area.

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 of the proposed units do achieve the private open space standards with the exceptions of Plots 18 and 19. These plots fall short by approximately 1m² and this is considered to be acceptable as a minor technical breach of the above policy.

5.6 Policy TLR5 of the Local Plan requests that all potential developers of residential sites comprising four or more houses, 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 their development relates.

The developer has confirmed agreement to make a contribution based on £100 per unit to the Sports, Leisure and Recreation Fund and hence complies with this policy.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultations Responses

6.2 Scottish Power and the Council's Neighbourhood Services Department have both objected to the proposed development. The objection from Scottish Power will require to be resolved by the developer prior to the commencement of development. The Neighbourhood Services Department has objected based on the understanding that the site was actually in the ownership of the Council; ownership having been taken some considerable number of years ago to facilitate a future extension to Drongan Cemetery. The site however is designated as a Residential Development Opportunity Site in terms of the adopted East Ayrshire Local Plan.

Representations

6.3 One letter of representation was received and this objected to the proposed development due to the volume of traffic it would create on a small access road. As stated in Para 4.2 the Roads and Transportation Division has found the development to be acceptable in road safety terms.

Planning History

6.4 The site of the current application forms the second and third phases of a residential development for which Phase 1 is under construction (Ref: 03/0547/FL approved by the Local Planning Committee on 14 November 2003). The site is also one which has been allocated in the statutory development plan for residential development.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. If the Committee is minded to approve the application it would require to be the subject of a Section 75 legal agreement to secure the funds which the developer shall be contributing to the Council's Sports, Leisure and Recreation fund further to Policy TLR5 of the Adopted Local Plan. A contribution of £100 per unit has been agreed.

7.2 Although it is understood that the legal ownership of part of the application site is in dispute and that the Council has a direct interest in this, this is not a valid reason for refusal of the application as such matters will be determined through separate legal processes.

8. CONCLUSIONS

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

8.2 The proposal is for the erection of nineteen dwellinghouses to form Phases 2 and 3 of a residential development for which Phase 1 (ten units) is almost complete. This is a site which has been identified in the development plan for such development, albeit at a higher density. The proposal is therefore acceptable in principle and the issues to be considered are therefore design related and to ensure that the appropriate level of services and facilities can be achieved.

8.3 The site layout is consistent with the surrounding residential developments which have taken place and the design of the houses is also considered to be in keeping with the neighbouring built environment. Each of the plots has sufficient private open space and there are no visual or residential amenity issues arising.

8.4 The Neighbourhood Services Department has objected to the proposed development. Phase 3 of the development is on land immediately to the west of the existing cemetery which that department understood to be in Council ownership to facilitate a future extension of the cemetery. Land immediately north of the cemetery has also been identified for an extension to the car park which serves the cemetery. The development however is consistent with the

Local Plan designation which is supportive of housing and does not safeguard the site for any other purpose. Therefore, the recommendation must be one of approval subject to appropriate conditions.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed 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 7.1 of this report.

CONTRARY DECISION NOTE

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

Alan Neish
Head of Planning, Development and Building Standards

16 January 2005
NM/HM/HM
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 application 03/0547/FL.

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

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 04/0699/FL

Location	Land at Robert Burns Avenue DRONGAN
Nature of Proposal:	Proposed residential development
Name and Address of Applicant:	G & S Homes 63 Montgomerie Street Tarbolton AYR KA5 5QD
Name and Address of Agent	Lawrence McPherson Associates The Atrium 6 New Road AYR KA8 8EX

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

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

1. Prior to the commencement of development the developer shall submit to the Planning Authority a landscaping scheme for the areas of open space as outlined in green on the plans hereby approved and once approved this scheme shall be implemented no later than the first planting season following the occupation of the last dwellinghouse to be completed in Phase 3.

REASON – In the interests of the amenity of the site.

2. Prior to the commencement of development the developer shall submit a programme for the future management and maintenance of the areas of the public open space to be approved in writing by the Planning Authority and implemented thereafter as approved.

REASON – To ensure the areas of public open space are maintained in perpetuity.

3. Prior to the commencement of development the developer shall ensure that the proposed method of Sustainable Urban Drainage and its future management and maintenance has received the written approval of the Scottish Environment Protection Agency.

REASON – In the interests of public health and safety.

4. The internal roads must comply with the Roads Development Guide 1996 as per the Construction Consent granted by East Ayrshire Roads Department on 08 March 2004 for the whole site.

REASON – In the interests of road safety.

5. Two number off road parking spaces shall be provided for each 2/3 bedroom dwelling, three off road parking spaces shall require to be provided for each 4/5 bedroom and 0.25 visitor's spaces per dwelling as shown on the submitted plan to the satisfaction of the Planning Authority in consultation with the Roads and Transportation Division.

REASON – In the interests of road safety.

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

REASON – To avoid obstruction on the public highway in the interests of pedestrian and road safety.

7. Prior to the occupation of each dwellinghouse, the private driveway shall be paved for a minimum distance of 2m from the rear of the footway to avoid overcarry of loose material onto the public road.

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

8. Any gates shall open inwards away from the proposed public road.

REASON – To avoid obstruction on the public highway in the interests of pedestrian and road safety.

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

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

10. No buildings, other erections or land formations shall be placed underneath or within a distance laterally of 40 feet from the middle of the existing electricity lines within the development site.

REASON – In the interests of public safety

NOTES TO APPLICANT

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the construction of the residential roads and footpaths, street lighting etc. The Division can be contacted on Tel 01563 555330. The internal roads must comply with the Roads Development Guide 1996. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming, internal junction visibilities etc.

2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site, (including capacity issues), and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be

drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.
4. The applicant should make early contact with Scottish Power with respect to the existing power lines within the application site that may be affected by the proposed development.

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VIEWING PLEASE CONTACT (01563) 555320.**