

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 17 JUNE 2005**

**05/0423/FL: ERECTION OF DWELLINGHOUSE  
AT 6 HOLMHEAD ROAD, CUMNOCK**

**APPLICATION BY MR A SIMPSON**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full permission is sought for the erection of a detached single storey two bedroom dwellinghouse on the site with access to the site to be taken from Kyle Court. The site plan indicates that the proposed dwellinghouse will not encroach beyond the front building line of Kyle Court. The proposed dwelling will present a gable end onto Kyle Court and is of a style similar to other dwellings in the locality.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet.**

**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 representations made all show a degree of concern with respect to a new dwellinghouse being located in an already established cul-de sac. It is however not perceived that the erection of a dwellinghouse at this location will detrimentally affect the neighbouring properties and amenity of the area with the points raised in the objection letters being adequately addressed.

3.3 To conclude, the proposal shows compliance with the relevant policy RES5 and RES22 of the East Ayrshire Local Plan and will provide more than

sufficient private open space for both the proposed dwelling and the existing dwelling conforming to Schedule 4 of the Local Plan. The proposed building materials will provide a suitable match with the materials used throughout Kyle Court and it is not perceived that any significant loss of day light or any issues of overlooking to neighbouring properties will result from the erection of this dwellinghouse at this site.

### **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, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the East Ayrshire Local 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 MR A SIMPSON**

**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, as the proposed development is subject to objections.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site lies on the east section of Kyle Court in Holmhead, Cumnock, some 250 metres south-east of the junction of Kyle Court with Holmhead Road and comprises of the greater part of the rear curtilage of the existing detached dwellinghouse at No.6 Holmhead Road.

2.2 The site is level and extends to 335m<sup>2</sup>, forming part of the rear garden lawn at No.6 Holmhead Road. The site is bounded to the north, south and east by residential properties and by the Kyle Court residential road and residential properties to the west. The site frontage onto Kyle Court is lined by 5 metres high Leylandi hedging.

2.3 **Proposed Development:** Full permission is sought for the erection of a detached single storey two bedroom dwellinghouse on the site with access to the site to be taken from Kyle Court. The site plan indicates that the proposed dwellinghouse will not encroach beyond the front building line of Kyle Court. The proposed dwelling will present a gable end onto Kyle Court and is of a style similar to other dwellings in the locality.

**3. CONSULTATIONS AND ISSUES RAISED**

3.1 Cumnock Community Council has no objection to the proposal.

***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 must be taken via a standard driveway access crossing to East Ayrshire Roads Division standards. The applicant must contact the Roads Division for further details/specification and a road opening permit will be required
- (ii) Visibility sightline splay areas of 2 metres by 20 metres will require to be formed and maintained at the access point with no obstruction greater in height than 1 metre allowed within these splay areas.
- (iii) Any garage must be set back a minimum distance of 6 metres from the rear of the footway.
- (iv) The private driveway will require to be hard paved for a minimum distance of 2 metres from the rear of the footway to avoid the over carry of loose material onto the public road.
- (v) Two number off road car parking spaces will require to be provided
- (vi) The proposed driveway should not be less than 10 metres in length by 3 metres wide.
- (vii) Any gates must only be able to open inwards away from the public road.
- (viii) No surface water must be allowed to discharge from the site onto the adjacent public road/footway.

***Conditions can be attached to any consent granted for the development to meet the requirements of the Roads Division***

3.3 Scottish Water has no objection to the proposal providing the applicant makes a separate application to Scottish Water Planning and Development Services team for permission to connect to the public waste water system and/or water network at the appropriate time.

***Noted.***

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

***Noted.***

3.5 Transco has no objection to the proposed development.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 Three letters of representation have been received with regard to the proposed development, the main points of which are summarised below:

4.2 In April 1999 concerns were expressed when the then owners of 6 Holmhead Road wanted a development at the rear of the house. For good reasons this did not obtain support from the Planning Authority.

***At this time the development plan consisted of the finalised Cumnock and Doon Valley Wide Local Plan with Policy RES 11 presuming against 'back land development'. However the development now requires to be assessed against the adopted East Ayrshire Local Plan in which Policy RES5 supports the sub division of existing house curtilages within settlement boundaries subject to three criteria being met. This is further detailed in Section 5.3 of the report.***

4.3 At the front and rear of the proposed residence there are large mature trees which will require removal and at the front an access onto Kyle Court will have a fairly steep drive.

***A site visit has revealed that the trees to the west and east sections of the site are mostly Leylandi and have no protection status. Therefore their subsequent removal would not require any consent from the Planning Authority. It is envisaged that the removal of such trees will increase levels of natural light to a number of the surrounding properties. The Roads and Transportation Division has no adverse comments to make regarding the gradient of the proposed driveway access from Kyle Court.***

4.4 It is noted that there is insufficient space for a garage even with a two bedroom house this is indicative of building congestion.

***The proposal clearly meets the Council's private open space requirements as outlined in Policy RES22 and further detailed in Section 5 of the report. The applicant has stated that an area of 188m<sup>2</sup> will be available to the rear of the proposed dwelling for private open space. Similarly the existing dwelling at No. 6 Holmhead Road will retain some 211 m<sup>2</sup> of private open space thereby complying with the required standard outlined in Policy RES22.***

4.5 A bay window at the front of the house would be some 3 metres above road level and would overlook my garden and leisure area at the rear of 2 Holmhead Road.

***The distance from the proposed bay window looking onto Kyle Court will be at least 20m from the rear garden area of No.2 Kyle Court. As the property has a large boundary wall, approximately 1.8 metres in***

***height, it is considered that this proposal will not have any significant adverse impact on the objector's privacy.***

4.6 Is it fair for more recent occupiers to exploit changes in legislation and planning regulations to others who were advised on the benefits of space?

***The adopted East Ayrshire Local Plan clearly provides opportunities for the sub division of existing house curtilages for the development of a dwellinghouse subject to the relevant criteria being met. This is not intended to discriminate against any parties with such policies in place to guide development within settlement boundaries if the criteria outlined in Section 5 of the report can be met.***

4.7 Any house built on this plot would not be in keeping with any of the surrounding properties

***The properties located within Kyle Court provide a good example of a mix of house types. The dwellings are not uniform in their layout with a number benefiting from substantial extensions and others occupying elevated positions within the street. The proposal does not break the front building line of Kyle Court and the house type is not perceived as out of place with the proposed materials matching those used in the street. The layout of the site with the gable end facing onto the street is of a similar layout to the neighbouring property of No. 1 Kyle Court albeit on a smaller scale.***

4.8 The existing house at 6 Holmhead Road is a large family with a safe rear garden as opposed to their front garden which is on a busy road junction and to use rear garden to build on would leave a strip of ground of between 1 and 2 metres of a garden between the existing and proposed houses. This would in no way enhance the outlook or garden amenity of this house nor the aspects of a safe play area.

***The area of ground identified as private open space in relation to the property of 6 Holmhead Road has significantly reduced but will still provide an area of 211m<sup>2</sup> to the rear and side with a large area of ground available to the front and western side as shown in the submitted plans. This is more than double the area of Private Open Space required under Policy RES22 of the East Ayrshire Local Plan. The distance, as mentioned above, in relation to the width of the rear garden area would be reduced to a distance of 6 metres from the rear elevation of No.6 Holmhead Road to the boundary line of the proposed dwelling.***

4.9 The proposed building has obviously been reduced to accommodate the limited garden area available to build on with no thought to the overall effect or

attempt at blending in with the type of houses, size or character already built in this very attractive area and to allow this to succeed would be detrimental to the overall ambience and amenity of the area.

***It is accepted that Kyle Court is a very attractive street with a variety of property styles. However, due to this variety it is not perceived that the proposed dwellinghouse will look out of place with its surroundings. The dwelling will be positioned with the gable end facing west towards Kyle Court in a similar way to the neighbouring property, the building frontage of the street will not be broken and the proposed building materials are further perceived as compatible with the rest of the dwellings within Kyle Court. A condition can be attached to ensure that a matching front boundary wall facing onto Kyle Court is established with an entrance similar to the adjacent property of 1 Kyle Court.***

4.10 To allow the erection of this dwelling house would result in a very substantial loss of amenity and privacy to our property 1 Kyle Court as the proposed house is to be built 1 metre from our wall. The roof of this house would completely blank out any view from our living room, dining room, kitchen, utility room and conservatory and also cause a devastating loss of daylight.

***At present a small brick wall, approximately 1 metre in height, extends the length of the southern boundary of the site with a line of conifer trees stretching to an approximate height of 3 metres, with further trees providing screening towards the east of the site at a height of around 6 – 8 metres. Further to the eastern boundary of the site Leylandi, which are over 10 metres in height and relatively thickly planted follow the boundary towards the north of the site. Both the planting on the east and southern boundary of the site reduces any view from the neighbouring property of No.1 Kyle Court and due to the relative height and thickness in places of the trees it will undoubtedly have a reduced effect on the levels of day light entering the neighbouring property. Therefore the erection of a new dwelling at a distance of 10 metres from No.1 Kyle Court and at a height of 2.6 metres from ground level to eaves level and 5.5 metres from ground to the highest part of the pitched roof is not considered to dramatically reduce the levels of daylight currently experienced.***

4.11 It must also follow that the value of the property must be affected by such an action as well as having the same effect on the surrounding properties.

***The loss of value of property is not a valid ground of objection to this application.***

4.12 The Council overturned a similar application from the previous owners in 1999 when at that time they upheld the principles of privacy and concerns for the amenity of the area being retained. If this proposal was in fact agreed to, then the Council would be setting a very dangerous precedent and opening the floodgates to everyone who was of a mind to build in their back garden regardless of size and suitability and effect on the amenity of the area.

***As discussed in section 5 of the report due to the change in planning policy in terms of the East Ayrshire Local Plan the proposed development shows compliance with the relevant policy and therefore would not necessarily set an undesirable precedent as the new Local Plan policies promote such developments so long as the relevant criteria are met.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 There are no policies contained in the structure plan which are especially relevant to the development.

### East Ayrshire Local Plan

5.3 Policy RES5 states that, within Settlement Boundaries, the Council will be supportive of the sub-division of existing house curtilages for the development of dwellinghouses subject to three criteria being met, as follows:

(i) the proposal being fully in keeping with the existing residential character and appearance of the area within which it is located;

***It is considered that the proposed development is fully in keeping with the existing residential character and appearance of the area within which it is located.***

(ii) the proposal meeting all the design requirements of the Council and not creating unacceptable damage to the amenity of surrounding properties; and

***It is considered that, although very simple, the design of the proposed dwelling meets the design requirements of the Council and***

**does not create any unacceptable damage to the amenity of surrounding properties.**

(iii) acceptable levels of privacy being maintained to neighbouring properties and to the new housing proposed.

**It is not considered that the proposed development will adversely impinge on the levels of privacy of either neighbouring properties or of the new house itself.**

The policy also states that backland development will not be permitted in certain stated circumstances;

- (i) where this would adversely affect the amenity of the area;
- (ii) where this would adversely affect the setting of either the proposed or original building on the site; or
- (iii) where this would adversely affect the amenity of neighbouring properties.

**Although the proposed development represents a development within the rear garden ground of an existing residential property, it is not considered that the development constitutes a back land development in terms of the policy as the site has a frontage onto Kyle Court.**

5.4 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. The policy also allows those standards quoted to be relaxed in respect of the conversion of existing properties to flats where this can be fully justified by the developer and where considered appropriate by the Planning Authority.

**It is considered that the proposed development meets the secluded private open space provision for residential development detailed in Schedule 4 of the local plan. The amount of private garden ground left for the existing house is also acceptable in terms of the policy.**

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

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

### Consultations Responses

6.2 The consultation responses received would indicate that approval of the application would be appropriate.

## Representations

6.3 The three third party representations received all show a clear level of concern on a variety of issues principally regarding the effect on the visual amenity of the immediate area with respects to the street frontage of Kyle Court. However, these issues have been sufficiently addressed in Section 4 of the report and therefore little weight should be given to them.

## Planning History

6.4 The land to the rear of 6 Holmhead Road has been the subject to 2 previous planning applications for the erection of a residential dwelling. This is summarised below:

(i) CD/89/284: A detailed planning application for the erection of a dwellinghouse in the rear curtilage of No.6 Holmhead Road was approved on 5 October 1989. The house has been built on site and is 1 Kyle Court.

(ii) 99/0256/FL: An outline planning application for the erection of a dwellinghouse, within the rear curtilage of 6 Holmhead Road, taking access from Kyle Court, was subsequently refused on the 22<sup>nd</sup> October 1999 at the Southern Local Planning Committee.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in the determination of this application.

## **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 representations made all show a degree of concern with respect to a new dwellinghouse being located in an already established cul-de sac. It is however not perceived that the erection of a dwellinghouse at this location will detrimentally affect the neighbouring properties and amenity of the area with the points raised in the objection letters being adequately addressed.

8.3 To conclude, the proposal shows compliance with the relevant policy

RES5 and RES22 of the East Ayrshire Local Plan and will provide more than sufficient private open space for both the proposed dwelling and the existing dwelling conforming to Schedule 4 of the Local Plan. The proposed building materials will provide a suitable match with the materials used throughout Kyle Court and it is not perceived that any significant loss of day light or any issues of overlooking to neighbouring properties will result from the erection of this dwellinghouse at this site.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet.**

## **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, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the East Ayrshire Local Plan.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

03 June 2005  
RG/HM/SMB  
FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Three Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Approved Application – CD/89/284
8. Refused Application – 99/0256/OL

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: 05/0423/FL

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Location	6 HOLMHEAD ROAD, CUMNOCK
Nature of Proposal:	ERECTION OF DWELLINGHOUSE
Name and Address of Applicant:	MR A SIMPSON 6 HOLMHEAD ROAD CUMNOCK KA18 1AF
Name and Address of Agent	MR J HAMILTON 33 JOPPA COYLTON KA6 6JD

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

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

1. Notwithstanding the submitted plans, the roof tiles and facing brick are not hereby approved. Details/samples of roof tiles and facing brick shall be submitted to and approved by the Planning Authority before any development commences on site.

REASON: In the interest of visual amenity

2. Notwithstanding the submitted plans, visibility splay areas of 2.0m by 20m shall require to be formed and maintained at the access point to Kyle Court with no obstruction to visibility greater than 1 metre in height being allowed within these areas.

REASON: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit

3. No surface water shall be allowed to issue from the site onto the public road. The first two metres of the driveway shall be surfaced in order to prevent deleterious materials being deposited onto the public road.

REASON: To ensure the provision and maintenance of a secure road surface in the interest of road and public safety.

4. Notwithstanding the submitted plans, parking spaces for two cars shall be provided and thereafter maintained within the site area.

REASON: In the interest of road safety

5. Notwithstanding the submitted plans, any access gates to be provided shall open inwards away from the public road to prevent obstruction

REASON: In the interest of road safety

6. Notwithstanding the submitted plans, any garage to be erected shall be set back a minimum distance of 6 metres from the rear of the footway.

REASON: In the interests of road safety

7. Access to the site shall be taken via a standard driveway access crossing to East Ayrshire Roads Division standards.

REASON: In the interest of road safety

8. Notwithstanding the submitted plans the driveway shall not be less than 10 metres in length and 3 metres wide.

REASON: In the interest of road safety

9. Notwithstanding the submitted plans the western boundary of the site (facing onto Kyle Court) shall be defined by a wall, matching that of the adjacent property of No.1 Kyle Court and no greater than 1.0 metre in height. Full details of the wall shall be submitted to and agreed by the Planning Authority within 3 months of the dwelling being completed on site

REASON: In the interests of visual amenity

#### **Note to Applicant**

- 1) The applicant shall make early contact with the Scottish Water for permission to connect to the public waste water system. Scottish Water can be contacted on 0845 601 8855.

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