

## **EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 24 MARCH 2005**

**03/0508/OL: PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 10  
PLOTS AT DOONHOLM NURSERY, OFF MAIN STREET, PATNA**

**APPLICATION BY GLENDEVON HOMES 2002 LTD**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to develop the site for residential purposes. A site plan has been submitted which indicatively shows ten detached units of reasonable proportions and set within generously sized feus, all of which would be bound by a retaining wall on the south side.

1.2 The proposed access is to be taken off Main Street which would require an existing, though vacant and derelict, timber commercial unit to be demolished. The properties would be positioned on the Main Street side of the site and the access road would lie to the front and culminate in a hammerhead. A portion of land by the riverside and also owned by the applicant would remain as an uncultivated green field. It is proposed to connect into the public sewer for drainage purposes.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons listed on the attached sheet.**

#### **3. SUMMARY OF ANALYSIS**

3.1 As indicated in section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application and it is not considered these would indicate that the recommendation should be contrary to the development plan.

3.2 Outline planning permission is sought for the development of a site for residential purposes which is located in the Rural Diversification Area of the

countryside. The site is adjacent to but outwith the settlement of Patna and would therefore constitute an extension to the greenfield supply of land for residential development. The applicant has not submitted any information which would demonstrate there is a shortfall in the effective housing land supply to justify the release of this land. There is no other justification for the proposed development and it is therefore contrary to the development plan in principle.

3.3 It is proposed to develop the site for the erection of ten detached dwellinghouses set within reasonably sized plots and the indicative site layout is considered to be acceptable in terms of visual and residential amenity. The access road as currently proposed has been found to be acceptable to the Roads and Transportation Division subject to road safety improvements which would require to be carried out.

3.4 With regard to the proximity of the site to the River Doon and its potential for flooding the developer has submitted a FRA report and supplementary information, including plans, to demonstrate that the proposals comply with the requirements of SPP7. However, it is not considered that this has been sufficiently demonstrated and hence the proposals are not compliant with the national policy context.

3.5 In the absence of a justification for the proposed extension to the greenfield supply and the lack of evidence that the development can be sufficiently protected from flooding of the site without causing detriment elsewhere the recommendation must be one of refusal.

## **CONTRARY DECISION NOTE**

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

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

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

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APPLICATION BY GLENDEVON HOMES 2002 LTD

### 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 an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation, due to it being recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The site, which extends to approximately 0.96 hectares, comprises an elongated area of low lying land in the Rural Diversification Area of the countryside. Located immediately on the south side of the settlement boundary of Patna, the site lies parallel to the River Doon, beyond which the land rises northwards to Ayr Road, Patna.

2.2 Immediately south and on higher ground are existing two storey local authority houses and an area of public open space which fronts onto Main Street and to the west is open ground lying to the rear of the former Country Firs Hotel and a mix of commercial and residential properties which also front onto Main Street. The River Doon wraps around the east side of the site where it flows under the Patna Bridge and beyond.

2.3 **Proposed Development:** It is proposed to develop the site for residential purposes. A site plan has been submitted which indicatively shows ten detached units of reasonable proportions and set within generously sized feus, all of which would be bound by a retaining wall on the south side.

2.4 The proposed access is to be taken off Main Street which would require an existing, though vacant and derelict, timber commercial unit to be demolished. The properties would be positioned on the Main Street side of the site and the access road would lie to the front and culminate in a hammerhead. A portion of land by the riverside and also owned by the applicant would remain as an

uncultivated green field. It is proposed to connect into the public sewer for drainage purposes.

### **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) visibility sightline splay areas of 2.5m by 70m will require to be formed and maintained at the new access onto Main Street, with no obstruction greater than one metre in height allowed within these areas;
- (ii) the access onto Main Street must have a maximum gradient of 2.5% over the first 5m back from Main Street and then 8% maximum over the remainder of the access road to the house plots;
- (iii) a 2m wide footway to East Ayrshire Roads specification, will require to be constructed along the frontage of the site by widening of the existing footway along Main Street including nibbing to achieve the required visibilities;
- (iv) access to the site will require to be taken via internal roads which comply with the Roads Development Guide 1996 and will require Construction Consent from East Ayrshire Roads Department. This consent would cover details such as road widths, footways, road construction, street lighting, drainage, traffic calming etc;
- (v) any existing public utility apparatus/drains etc located within the site will require to be protected or diverted beneath the proposed site roads/footways;
- (vi) any relocation/renewal of existing street lighting/street furniture required as a result of the development will be at the applicant's expense;
- (vii) any garages must be set back a minimum distance of 6m from the rear of the footway;
- (viii) the private driveways will require to be paved for a minimum distance of 2m from the rear of the footway to avoid overcarry of loose material;
- (ix) visitor and residents parking will require to comply with the Roads Development Guide 1996 parking provision based on the number of bedrooms per house;
- (x) any gates will require to be prevented from opening outwards towards the public road/footway;
- (xi) no surface water will be allowed to discharge from driveways onto the public road;
- (xii) a vehicle guardrail may be required to be provided by the applicant in line with the Design Manual for Roads and Bridges requirements on the access road into the site at the applicant's expense.

***It is recommended that if the Committee is minded to approve the application this is subject to completion of a Section 75 legal agreement in order to secure the required road safety improvements.***

3.2 East Ayrshire Flooding Section has advised that in its current form the application is contrary to SPP7: Planning and Flooding and given its location, it should not be developed in principle. In addition, the applicants have not demonstrated appropriate compensatory flood storage.

***The developer has submitted a Flood Risk Assessment (FRA) report but this was not found to satisfy the requirements of SPP7 and the site therefore is not appropriate for the residential development proposed.***

3.3 East Ayrshire Outdoor Services Section has been consulted but no response had been received at the time of writing this report.

***Noted.***

3.4 Scottish Water has advised that the proposal may involve building over or in such a way as to obstruct access to an existing public sewer and the developer is required to contact Developer Services in this regard. The record drawings also show that there is water apparatus located within the development site that may be affected by the proposal. There is a public sewerage system to which a connection may be made from the proposed development and a totally separate drainage system of foul and surface water sewers will be required.

***The developer has been advised to contact Developer Services to discuss the position of the public sewer and water apparatus.***

3.5 The Scottish Environment Protection Agency has no objections in principle to the proposed development provided the drainage arrangements are to their satisfaction. In this regard all foul drainage from the site must be connected to the existing public sewer to the satisfaction of Scottish Water. The developer should select and install suitable Sustainable Urban Drainage systems to treat and attenuate surface water on site.

***It is proposed to connect to the public sewer and Scottish Water has advised there is a public system to which a connection could be made.***

With regard to the flooding issue SEPA has advised they have no record of flooding at the site although the 100 year flood risk maps appear to indicate that at least part of the site may be at risk of flooding and the following points have been made:

- (i) the Flood Risk Assessment (FRA) indicates that the road and houses will be some 5.5 metres above the river bed. This appears contrary to the site plans which indicate that the road and houses (at the upstream end of the site), may be less than 5.5 metres above river bed level.
- (ii) it is stated that the river may be expected to rise to 3 metres above river bed level, but no supporting information has been provided, and no indication as to what probability (return period) of flood this relates to. Indeed the FRA states that no estimate of river flow has been made.
- (iii) Whilst it would initially appear that the proposed site levels would indicate a low flood risk, the possibility of hydraulic controls in the downstream channel reach, and possible flow routes around the western end of Patna Bridge (or the weir downstream of the bridge) may impact upon parts of the site.
- (iv) The report notes a loss of floodplain storage. This has not been quantified and the impact of this can only be negative in terms of flood risk.

***Further to this consultation response the applicant has submitted additional information regarding the proposed flood mitigation measures but this has not been found to satisfy the requirements of SPP7: “Planning and Flooding”.***

3.6 The West of Scotland Archaeology Service has been consulted but no response had been received at the time of writing this report.

***Noted.***

3.7 Scottish Power has advised that their location maps are indicative only and the site operator should therefore refer to the Health and Safety Executive booklet HS (G) 47 – “Avoiding Danger from Underground Services”.

***Noted.***

3.8 Transco has recommended that their information pack is passed to the contractor on site in order to prevent plant damage and potential direct or consequential costs to the company.

***Noted.***

3.9 The Coal Authority has advised that the site is within the geographical boundary of an opencast site from which coal has been extracted by opencast methods and in view of the mining circumstances a prudent developer would seek appropriate technical advice before works are undertaken on site.

***Noted.***

3.10 Patna Community Council has been consulted but no response had been received at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 This planning application has not attracted any third party letters of representation.

#### **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 Policy G1 of the structure plan states that any proposed development outwith settlement boundaries shall not conform to the structure plan except:

- A where it specifically accords with other policies in the structure plan;
- B in locations identified in local plans for that specific development purpose; and
- C where the proposed development meets appropriate development criteria as defined by the structure and local plan.

***The proposed development is for residential purposes outwith the settlement envelope. No justification for the proposed housing has been submitted to comply with the terms of Policy G1. The proposal is therefore contrary to the Joint Structure Plan.***

##### East Ayrshire Local Plan

5.3 The site proposed for development is a greenfield site located immediately adjacent to the settlement, but outwith the settlement boundary, and its development for residential purposes is therefore to be considered against the terms of Policy RES2 which state that such developments will not be acceptable unless all of the following criteria are satisfied:

- (i) there is a demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area;

- (ii) the site can be demonstrated to be effective and contribute to output during the shortfall period;
- (iii) the proposals meets the terms of the Housing Development Strategy of the Local Plan;
- (iv) road access and all other services and infrastructure can be provided to the standards required by the relevant public and statutory service providers; and
- (v) the proposal accords with the Council's policies with regard to design and layout and has minimal impact on the visual and natural environment.

***The applicant has not submitted any information which would meet the above mentioned criteria and the proposal therefore does not comply with this policy and is hence contrary to the Local 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 national guidance pertinent to the proposed development.

### Consultations Responses

6.2 The Council's Flooding Engineer has concluded that on the basis of the current submission the proposed development is not acceptable in principle from a flooding perspective.

### Planning History

6.3 The site proposed for development has been the subject of an application for residential development previously. In 1992 planning permission (Ref: CD/91/360) was granted for a development of eleven bungalows and associated roadworks. This permission was never implemented and has therefore expired. At the time that consent was granted the site was within the settlement envelope as shown in the Dalmellington/Patna/Dalrymple Local Plan 1989. The site was subsequently excluded from the settlement envelope. Therefore this expired permission is not considered to be of any materiality in the consideration of the current proposal.

### National Guidance

6.4 The site proposed for development is located in close proximity to the River Doon and is therefore vulnerable to the effects of flooding at times of heavy prolonged rainfall when the river is in spate. It must therefore be considered

under SPP7: Planning and Flooding which requires a 1 in 200 year flood event risk assessment to be undertaken and appropriate mitigation measures to be implemented. Further to submission of an FRA report and supplementary drawings and information, the Council's Flooding Engineer has concluded that the developer has not satisfactorily demonstrated that the proposal does meet the terms of SPP7. This national policy guidance is a material planning consideration of significant weight in the determination of the application and indicates that the application should be refused.

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

7.1 There are no financial implications for the Council in the determination of this application. Legal implications would arise from the requirement for a Section 75 Agreement regarding roads issues, should consent be granted for the proposed development.

## **8. CONCLUSIONS**

8.1 As indicated in section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application and it is not considered these would indicate that the recommendation should be contrary to the development plan.

8.2 Outline planning permission is sought for the development of a site for residential purposes which is located in the Rural Diversification Area of the countryside. The site is adjacent to but outwith the settlement of Patna and would therefore constitute an extension to the greenfield supply of land for residential development. The applicant has not submitted any information which would demonstrate there is a shortfall in the effective housing land supply to justify the release of this land. There is no other justification for the proposed development and it is therefore contrary to the development plan in principle.

8.3 It is proposed to develop the site for the erection of ten detached dwellinghouses set within reasonably sized plots and the indicative site layout is considered to be acceptable in terms of visual and residential amenity. The access road as currently proposed has been found to be acceptable to the Roads and Transportation Division subject to road safety improvements which would require to be carried out.

8.4 With regard to the proximity of the site to the River Doon and its potential for flooding the developer has submitted a FRA report and supplementary

information, including plans, to demonstrate that the proposals comply with the requirements of SPP7. However, it is not considered that this has been sufficiently demonstrated and hence the proposals are not compliant with the national policy context.

8.5 In the absence of a justification for the proposed extension to the greenfield supply and the lack of evidence that the development can be sufficiently protected from flooding of the site without causing detriment elsewhere the recommendation must be one of refusal.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons listed on the attached sheet.**

### **CONTRARY DECISION NOTE**

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

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

11 March 2005  
NM/NM/SMB  
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. SPPG7: Planning and Flooding.
7. Previous application CD/91/360.

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: 03/0508/OL

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|--------------------------------|--|
| Location                       | Doonholm Nursery<br>Off Main Street<br>PATNA<br>KA6 7LN                                |
| Nature of Proposal:            | Proposed residential development comprising 10 plots                                   |
| Name and Address of Applicant: | Glendevon Homes 2002 Ltd<br>Glendevon House<br>Carlisle Road<br>LESMAHAGOW<br>ML11 0HU |
| Name and Address of Agent      | LBG Waterston<br>20 Old Bothwell Road<br>Bothwell<br>GLASGOW<br>G71 8AW                |

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

The above **OUTLINE** application should be refused for the following reasons:-

1. The proposed residential development is in the countryside outwith the settlement envelope of Patna for which no justification has been submitted. The proposal is therefore not compliant with the terms of Policy G1 of the Joint Ayrshire Structure Plan which requires that such proposals meet the criteria as stated within the terms of the policy.
2. The proposed residential development would represent an extension to the greenfield supply of land for residential development outwith, but adjacent to, the settlement envelope of Patna and would therefore breach the provisions of Policy RES2 of the East Ayrshire Local Plan. This policy requires that such proposals are accompanied by supporting information to demonstrate that the criteria as set out in the policy are met.
3. The developer has failed to demonstrate that the proposed development can sufficiently meet the terms of SPP7: "Planning and Flooding" which requires that development on areas vulnerable to the effects of flooding can be adequately protected without causing detriment elsewhere.

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