

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 28 MAY 2004**

**04/0209/OL : PROPOSED ERECTION OF ONE SINGLE STOREY  
DWELLINGHOUSE WITH DOUBLE GARAGE AT LAND AT KERSE SQUARE,  
PATNA**

**APPLICATION BY MR G GIRVAN**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to erect a single storey detached dwelling on the site. The application has been made in outline only at this stage but the block plan indicates a house on a T floor plan with its gable end onto the road and a detached garage. The house would be positioned slightly further back than the two existing units.

1.2 There is an old access which it is intended to use for the property and a septic tank to soakaway would be installed for the drainage.

**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, however it is considered that these could be addressed through conditions and would therefore not merit refusal of the application.

3.2 Outline planning permission is being sought for a dwellinghouse in the Rural Diversification Area of the countryside. The applicant has not submitted any supporting documents with the application which would suggest there might be a site specific locational need case. During the consideration of the

application by the Planning Division a letter was received from the agent in support of the proposed development. This letter advises that the site is principally contained within the former location of the area known as Kerse Square which originally comprised a school and a row of houses which were demolished some thirty years ago. An ordnance survey map, dated 1909, does indeed show the presence of such buildings. However, the site is now essentially a greenfield site and as such the proposed dwelling could not be considered as brownfield development.

3.3 The letter also makes reference to the fact that there is now a house in the central area of the whole site as well as one which is currently under construction. The house known as Dunston Cottage was approved and built prior to the current development plan. The house presently under construction was applied for and approved last year when there was still a planning consent extant on the site. The extant permission therefore formed a material planning consideration in the determination of that particular application.

3.4 The applicant states that they were given pre-application advice which favoured the proposal on the basis that the house was proposed in a previously developed area and not a virgin greenbelt. The official at that time was of the view that the site was a brownfield site and this was informal advice based upon the information provided by the applicant and given without the benefit of a site visit. However, a site visit has confirmed that the site could not reasonably be described as brownfield and is therefore to be considered under the normal policies pertaining to houses in the countryside.

3.5 Additionally the applicant advises that the existing and proposed houses are bounded to the north and east with approximately 5 acres of managed woodland planted in 1997/98 under the Farm Woodland Premium Scheme. The woodland is subject to a contract with the Forestry Commission with liability on the applicant to insure, maintain and manage the woodland. The applicant has confirmed that this woodland, albeit managed by him, is not his full time employment and in any case the woodland is not of a scale which would necessitate a permanent and full time presence in close proximity to it. The woodland is therefore not considered to provide a justification for the proposed dwellinghouse.

3.6 The proposed development is a house in the countryside for which no site specific locational need case has been demonstrated. In the absence of a justification for the house it is contrary to the development plan and is therefore recommended for 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 be a 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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PATNA**

**APPLICATION BY MR G GIRVAN**

**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 and being subject to objections.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The site is located to the east of the B730 north of Polnessan. It is set back from the road on ground which can be described as scrubby grassland and is slightly elevated from the road.

2.2 The site also encompasses an area of managed woodland which forms a belt around 67 metres in depth and stretches to 165 metres along the back of two other residential properties. The property immediately north of the site is a traditionally styled cottage known as Dunston Cottage and there is a sizeable two storey (dormer) unit presently under construction to the north of this. A property known as the Old Smithston lies further to the north and on the opposite side of the road.

2.3 **Proposed Development:** It is proposed to erect a single storey detached dwelling on the site. The application has been made in outline only at this stage but the block plan indicates a house on a T floor plan with its gable end onto the road and a detached garage. The house would be positioned slightly further back than the two existing units.

2.4 There is an old access which it is intended to use for the property and a septic tank to soakaway would be installed for the drainage.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 The Council's Roads and Transportation Division has no objection to the proposed development subject to the following conditions :

- (i) access to the site must be taken via standard field/driveway access crossing to East Ayrshire Roads standards;
- (ii) any roadside ditch/drain must be piped and protected beneath the proposed access;
- (iii) the junction onto the B730 should be bituminously surfaced for a distance of 6m from the edge of the road;
- (iv) visibility sightline splay areas of 2.5m by 90m will require to be formed and maintained at the access;
- (v) the applicant will require to form a 2m wide pedestrian refuge/verge along the frontage of the site;
- (vi) no surface water must be allowed to discharge onto the public road;
- (vii) 3 number off road parking spaces will require to be provided for the dwelling;
- (viii) any garages must be set back a minimum distance of 6m from the rear of the verge;
- (ix) any gates will require to open inwards away from the public road;
- (x) any internal turning area must be formed to allow access from the site to be taken in forward gear;
- (xi) due to the proximity of the existing bend on the B730, the applicant will be required to construct a service lay-by adjacent to their access.

***All of these conditions can be met on land within the applicant's control and can therefore be imposed on the consent if the Committee are minded to approve the application.***

3.2 Scottish Water had advised that there is an existing public water main in the street adjacent but there are no known sewers to which a connection may be made.

***Noted.***

3.3 The Coal Authority has no objection to the proposed development and had no adverse comments to make.

***Noted.***

3.4 Scottish Environment Protection Agency has no objection in principle to the proposed development and have advised that all surface water should be conveyed to the nearby watercourse using a suitable Sustainable Urban Drainage system i.e. a swale.

***Noted.***

3.5 PowerSystems has no objection to the proposed development.

***Noted.***

3.6 Patna Community Council had not responded to their consultation letter at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 Two letters of objection have been received in respect of the application and the following matters have been raised.

4.2 I went to considerable expense to remove the soil and build my house at a sympathetic height to the neighbouring Dunston Cottage – the proposed new dwelling would sit well above the present houses. Not only would this be unsightly but would raise the issue of privacy for the other residents. The ground associated with the application is a considerable height above the level of my property (Dunston Cottage). Both the proposed house and garden have the potential for a serious infringement of my privacy. Even if there are no windows on the side of the house facing my property (which is highly unlikely), the garden itself will pose a serious overlook onto my back garden.

***Albeit the application has been made in outline only it has been made for a single storey property which is to be positioned some 25 metres from Dunston Cottage and it is not considered that this would cause an unacceptable level of overlooking which would compromise privacy. However, the proposed house is indeed proposed on land which is slightly elevated above the public road and the existing two properties. If the Committee were minded to approve the outline application it would be reasonable to impose a condition for the ground to be levelled and a cross section detailing this to be submitted as part of the approval of Reserved Matters.***

4.3 During my application for planning I was constantly reminded by the Council that had my plot not already held outline planning permission it was highly unlikely that my application would have progressed.

***The house which is currently under construction was approved (Planning Ref :03/0008/FL) on 29 April 2003. This application was submitted for a plot which had an extant consent on it and hence this***

***formed a material planning consideration in the determination of the application.***

4.4 One main incentive to building on my plot was the exclusivity of the location and access to the area behind my house which, if Mr Girvan is allowed to proceed, would be lost. Myself and other neighbours use the area behind the house proposal for walking dogs and general exercise and Mr Girvan's proposal to purchase this land would mean we would lose a vital amenity.

***The land at present may be open for people to walk across but there is no asserted or formal right of way on this privately owned land. This and the perceived exclusivity of a site are not material planning considerations and therefore have no weight in the determination of this application.***

4.5 During the planning process for my own property, I had serious difficulty due to the 90m sightline requirement for the B730. There is a 90 degree bend to the south side of my property which posed problems for my application. The proposed house is closer to the bend and is in a much more precarious position. I was told during my application, that I could not move my property entrance up or down my boundary, as it would be worse both ways.

***There is indeed a bend on the B730 public road. However, the Roads Division has advised that subject to the provision of visibility splays and a service layby, due to the bend, they have no objections to the proposed development.***

## **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 G6 states that development proposals outwith settlements in the Rural Diversification Areas shall conform to the structure plan where the development :

- (a) comprises an acceptable form of residential development as defined by the local plan;
- (b) provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;

- (c) can be justified in terms of social and economic benefit to the community;
- (d) contributes to rural land diversification; or
- (e) provides for the operational needs of agriculture and forestry.

***The proposed development meets none of the above criteria and is therefore contrary to structure plan policy.***

### East Ayrshire Local Plan

5.3 Policy RES14 is supportive of small scale residential developments within the identified Rural Diversification Area, in one of three stated circumstances:

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES13 above; or

***No information has been submitted which would indicate that there is a justification for the proposed house which would comply with the categories as set out in Policy RES13.***

- (ii) the proposed house would constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary, subject to a set of criteria being met;

***There is not a clearly defined group of four or more houses at this location.***

- (ii) the proposed development constitutes very low density housing development, forming part of an integrated group of properties with a dual residential and workplace function supporting the rural economy as detailed in Policy RES18.

***The above criterion is not applicable to this application.***

***The proposal does not meet any of the above criteria and is therefore contrary to Policy RES14.***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses and third party letters of representation.

### Consultations Responses

6.2 None of the consultees has objected to the proposed development.

## Representations

6.3 Albeit two letters of objection have been submitted they do not raise any material planning considerations which could not be satisfactorily addressed by the imposition of appropriate conditions.

## **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 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, however it is considered that these could be addressed through conditions and would therefore not merit refusal of the application.

8.2 Outline planning permission is being sought for a dwellinghouse in the Rural Diversification Area of the countryside. The applicant has not submitted any supporting documents with the application which would suggest there might be a site specific locational need case. During the consideration of the application by the Planning Division a letter was received from the agent in support of the proposed development. This letter advises that the site is principally contained within the former location of the area known as Kerse Square which originally comprised a school and a row of houses which were demolished some thirty years ago. An ordnance survey map, dated 1909, does indeed show the presence of such buildings. However, the site is now essentially a greenfield site and as such the proposed dwelling could not be considered as brownfield development.

8.3 The letter also makes reference to the fact that there is now a house in the central area of the whole site as well as one which is currently under construction. The house known as Dunston Cottage was approved and built prior to the current development plan. The house presently under construction was applied for and approved last year when there was still a planning consent

extant on the site. The extant permission therefore formed a material planning consideration in the determination of that particular application.

8.4 The applicant states that they were given pre-application advice which favoured the proposal on the basis that the house was proposed in a previously developed area and not a virgin greenbelt. The official at that time was of the view that the site was a brownfield site and this was informal advice based upon the information provided by the applicant and given without the benefit of a site visit. However, a site visit has confirmed that the site could not reasonably be described as brownfield and is therefore to be considered under the normal policies pertaining to houses in the countryside.

8.5 Additionally the applicant advises that the existing and proposed houses are bounded to the north and east with approximately 5 acres of managed woodland planted in 1997/98 under the Farm Woodland Premium Scheme. The woodland is subject to a contract with the Forestry Commission with liability on the applicant to insure, maintain and manage the woodland. The applicant has confirmed that this woodland, albeit managed by him, is not his full time employment and in any case the woodland is not of a scale which would necessitate a permanent and full time presence in close proximity to it. The woodland is therefore not considered to provide a justification for the proposed dwellinghouse.

8.6 The proposed development is a house in the countryside for which no site specific locational need case has been demonstrated. In the absence of a justification for the house it is contrary to the development plan and is therefore recommended for 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 be a departure from the development plan.

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

17 May 2004  
NM/NM/SMB  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

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: 04/0209/OL

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Location	Land at Kerse Square PATNA KA6 7HA
Nature of Proposal:	Proposed erection of one single storey dwellinghouse with double garage
Name and Address of Applicant:	Mr Girvan 31 Crown Street AYR KA8 8AG
Name and Address of Agent	Carricks 7 Alloway Place AYR KA7 2AE

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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 development is a dwellinghouse in the Rural Diversification Area of the countryside for which no site specific locational need case has been demonstrated. It therefore does not comply with Policies G6 and RES14 of the Approved Ayrshire Joint Structure Plan and Adopted East Ayrshire Local Plan respectively. The provisions of these policies require that houses in the Rural Diversification Area comply with the criteria as set out in the terms of the policies and the proposed dwelling does not conform to any of the criteria as stated.

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