

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 08 OCTOBER 2004**

**04/0629/FL: PROPOSED ERECTION OF 4 DETACHED  
DWELLINGHOUSES AT BANK GLEN, CUMNOCK**

**APPLICATION BY TAY LIMITED**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the erection of four detached dwellings within the application site. The proposed dwellings are two-storey in height and comprise two house types as follows:

- (i) Type 4: Two storey, four bedroom unit (2); and
- (ii) Type 5: Two storey, four bedroom unit with integral double garage.

1.2 The Type 5 dwellings proposed have asymmetrical roof, with the front elevations of the dwellings presenting a one and a half storey appearance. Access is to be taken from the existing small turning area at the east end of Bank Avenue adjacent to the proposed plot. The turning area is to be altered to provide for a new hammerhead with each of the dwellings having a private or shared driveway accessing onto the hammerhead.

**2. RECOMMENDATION**

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

**3. SUMMARY OF ANALYSIS**

3.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 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 which are also generally supportive of the proposed development.

3.2 The proposed development in terms of its layout, design and use of finishing materials is considered to be acceptable for this location subject to the imposition of appropriate conditions. The issue of potential ground contamination can be addressed by the imposition of standard conditions to

ensure that appropriate site investigation is undertaken before development commences and if found to be appropriate, to ensure site remediation.

3.3 It is further considered that the majority of the points of representation received can be addressed either through the imposition of appropriate conditions in any consent granted for the proposed development, or are not valid or of sufficient weight to justify refusal of the application.

### **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning, Development and Building Standards the application would not require to be referred to the Development Services Committee as such a decision would not 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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### 04/0629/FL: PROPOSED ERECTION OF 4 DETACHED DWELLINGHOUSES AT BANK GLEN, CUMNOCK

#### APPLICATION BY TAY LIMITED

#### 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 the subject of objections.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The site lies on the south side of Bank Glen in Cumnock at the eastern limit of Bank Glen itself. The application site comprises an area of maintained open space lying between residential properties at Bank Glen to the north, at Keir Hardie Hill to the east and south and Murray Court to the west. Although not part of the application site, the area of maintained open space extends along the southern boundary of Bank Glen, being the site of the former library premises.

2.2 The application site extends to approximately 2440 m<sup>2</sup> and the topography of the area is such that it slopes upwards from Bank Glen in a generally south-easterly direction. The site is currently in the ownership of the Council

2.3 **Proposed Development:** Full planning permission is sought for the erection of four detached dwellings within the application site. The proposed dwellings are two-storey in height and comprise two house types as follows:

- (iii) Type 4: Two storey, four bedroom unit (2); and
- (iv) Type 5: Two storey, four bedroom unit with integral double garage.

2.4 The Type 5 dwellings proposed have asymmetrical roof, with the front elevations of the dwellings presenting a one and a half storey appearance. Access is to be taken from the existing small turning area at the east end of Bank Avenue adjacent to the proposed plot. The turning area is to be altered to provide for a new hammerhead with each of the dwellings having a private or shared driveway accessing onto the hammerhead.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Cumnock Community Council has no objections to the proposed development.

***Noted.***

3.2 Transco has no adverse comments to make on the proposed development.

***Noted.***

3.3 East Ayrshire Council's Roads and Transportation Division states that it has no objections in principle to the proposed development subject to the following conditions:

1. Access to the site will require to be taken via a new turning head to comply with the Roads Development Guide 1996 and will require construction consent from East Ayrshire Roads and Transportation Division.
2. No surface water must be allowed to discharge onto the public road.
3. Off-road parking spaces will require to be provided for each dwelling in accordance with the Roads Development Guide 1996.
4. Any garages must be set back a minimum distance of 6 metres from the rear of the footway.
5. The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road.
6. Any gates will require to open inwards, away from the public road
7. Drainage details and in particular the use of SUDS will require the approval of East Ayrshire Council Roads and Transportation Division and SEPA as part of the Construction Consent.
8. The proposed private driveways should not be less than 4.8 metres in length by 2.5 metres in width.

***Conditions can be attached to any planning consent granted for the proposed development to meet the requirements of the Roads and Transportation Division.***

3.4 Scottish Water has no objections to the proposed development.

***Noted.***

3.5 The Scottish Environment Protection Agency states that it has no objections in principle to the proposals provided the drainage arrangements are to its satisfaction. All foul drainage from the development site must be connected to the public sewerage system in accordance with Scottish Water requirements. The development must not entail the use of dual manholes for connections to the existing sewage system, either in the public sewers or within the curtilage of the development. SEPA request a condition requiring

the applicant to install a surface water treatment system designed and constructed in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual published by CIRIA. All waste materials generated by this development that require to be removed such as construction, demolition wastes and surplus excavated material, must be removed from the site by licensed waste carriers. Waste must be removed to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

***A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with SEPA regarding drainage of the site and disposal of waste materials. A condition can be attached to any consent granted in respect of the requirement for a SUD system to serve the development site.***

3.6 Power Systems has no objections to the proposed development.

***Noted.***

3.7 East Ayrshire Environmental Health Division states that the application site has been checked by the Contaminated Land Officer and comments that the development site was the location of a spoil heap for one of the Barrhill pits. Spoil heaps of this type may contain contaminants associated with historic mining such as heavy metals. Therefore the potential for soil contamination from the previous use of the site cannot be ruled out. It is therefore recommended that the standard contaminated land conditions be applied to this development.

***Appropriate standard conditions can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Division.***

The Environmental Health Division further states that should the applicant be able to progress the site to a suitable stage for development, it should be ensured that no site engineering and construction works give rise to justifiable compliant or nuisance from site activities outwith normal dayshift hours of operation.

***A condition can be attached to any consent granted for the proposed development to meet the requirements of the Environmental Health Division.***

It is also pointed out that the occupiers of the houses within the development will be required to take their various waste/ recycling bins to a suitable location at the hammerhead/ turning bay at the end of the shared driveway as the refuse collection vehicle will not reverse up this driveway.

***Noted.***

#### 4. REPRESENTATIONS

4.1 Three letters of representation with four signatories have been received objecting to the proposed development. The main points of objection are summarised as follows:

4.2 I note from the local plan that whilst the proposed development site is contained within the boundaries of a residential area it is not allocated for housing.

***Although the site is not specifically allocated for housing in the East Ayrshire Local Plan, the site is not safeguarded for any other purpose. Policy RES4 of the local plan indicates that within settlement boundaries the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites.***

4.3 Local knowledge indicates that this site has had a former industrial use and it is expected that East Ayrshire Council would exercise its duty under PAN33 in relation to any potential contamination issues to ensure that the development area will be fit for its proposed use.

***As indicated in Section 3.7 above, the history of this site is acknowledged. The potential for encountering soil contamination is recognised and this issue can be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.***

4.4 In the past there have been issues arising from the capacity volume of the local sewage system, resulting in blockages in the pipe work within some gardens. Concern is therefore raised regarding future blockages should the development proceed without those capacities being evaluated for the additional waste load they would incur. It is also anticipated that water supply systems are considered and evaluated with regard to flow and pressure.

***The drainage of the site and service provision are matters for the developer to resolve with Scottish Water and where appropriate, SEPA. In this regard no objections to the development have been received from either of these consultees relative to the points raised by the objector.***

4.5 Concern is raised that, due to the topography of the immediate area, the rear gardens of properties in Bank Glen may be affected by the implementation of a SUD system should water be allowed to soak away under the road towards the River Lugar, At present road drains located nearby collect the surface water run-off from the proposed development site.

***A Sustainable Urban Drainage system has been requested by SEPA to deal with surface water rising from the development. In this regard the developer will require to install a system to the***

**requirements of SEPA and the Council's Roads and Transportation Division such that the system is not detrimental to other interests in the locality.**

4.6 Although a small development, during the construction period it is requested that consideration be given to the hours of work that are permitted with regard to noise and dust arisings. To this end it is suggested that to be reasonable to the local residents of the area, no work should be carried out prior to 8 am Monday to Saturday, cease at 5 pm and not be permitted on a Saturday afternoon or on a Sunday.

***It is considered appropriate to impose a condition on any consent granted for the proposed development to restrict construction hours to minimise adverse impact on residential amenity.***

4.7 The height design i.e. two storey buildings, of the proposed development are not in keeping with the general house design of Bank Glen. Being too high, particularly the T5 house located on the north boundary of the site, will cast shadow over the existing properties, impinging on the quality of life of the local residents. It is suggested that this house be deleted from the plans or redesigned. When this land was landscaped and originally put up for sale we were of the understanding that any development would be for the construction of bungalow type dwellings.

***While existing dwellings in Bank Glen are of single or one and a half storey in height, the site lies within an area of mixed house types ranging from the two storey flatted properties in Keir Hardie Hill and the single and two storey development within Murray Court. It is considered that the proposed development in terms of scale and design attempts to integrate within this house type mix and is therefore appropriate to the location. Given the distances from existing residential properties, the potential impact from overshadowing is not considered to be significant.***

4.8 Our property has a garage and runway that will have a common boundary with the development. There will have to be an area of two or three feet around the garage retained by us for essential maintenance to be carried out.

***It does not appear that the objector owns the land adjacent to the existing garage adjacent to the application site. In this regard, the developer is not obliged to provide this buffer zone and although there would be access available around the existing garage, access for maintenance purposes would be a legal matter between the developer and the objector.***

4.9 Part of the land being considered for development in fact belongs to myself and I have title deeds outlining my boundaries and these encompass part of the proposed development site.

***While the comments of the objector are noted, objection to the proposal on the grounds of land ownership is not material to the determination of this application. The granting of any planning consent for the development does not negate the need for the developer to ensure he has secured the legal right to implement the 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 (1999) and the Adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 There are no structure plan policies directly relevant to this application.

***Noted.***

### East Ayrshire Local Plan

5.3 The site constitutes an infill, redevelopment site lying within the settlement boundary of Cumnock. The application therefore requires to be assessed against the provisions of local plan policy RES4 which states that, within Settlement Boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four stated criteria, as follows:

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

***It is not considered that the proposed development will have any adverse impact on the surrounding natural or built environment.***

(ii) transportation and infrastructure implications;

***There are no significant issues raised by statutory consultees in this regard.***

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

***The application comprises a development of 4 detached, two storey dwellings. It is considered that the density and house types***

***proposed are in keeping with surrounding densities and house types.***

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

***The development complies with the Council's approved Design Guidance for new residential developments.***

- 5.4 Policy TLR8 presumes against development on safeguarded areas of public open space or on land that contributes to the character and appearance of the area

***This land was improved by the previous local authority in response to concerns about its condition at that time. However, it is understood that those works were also viewed as enabling the possible future development of the site.***

- 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. 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.

***The proposed layout meets the Council's minimum standards for private open space provision.***

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

- 6.1 The principal material considerations relevant to the determination of the application are the consultation replies and the representations received.

### Consultation Replies

- 6.2 The consultation replies would generally indicate that approval of the application would be appropriate.

### Representations

- 6.3 The representations received do raise points of material consideration in the determination of this report. It is considered that most of the points raised can be satisfactorily addressed by the imposition of appropriate conditions and others are not of sufficient weight to justify refusal of the application.

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

7.1 Financial and legal implications for the Council in the determination of this application will arise through the sale of the development site to the applicant.

7.2 Although the Council has a financial interest in this development, the application will not require to be notified to the Scottish Ministers in terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997 (as amended), since the proposed development is not contrary to the adopted local plan nor has the development attracted a significant body of objections.

## **8. CONCLUSIONS**

8.1 As is indicated in Section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 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 which are also generally supportive of the proposed development.

8.2 The proposed development in terms of its layout, design and use of finishing materials is considered to be acceptable for this location subject to the imposition of appropriate conditions. The issue of potential ground contamination can be addressed by the imposition of standard conditions to ensure that appropriate site investigation is undertaken before development commences and if found to be appropriate, to ensure site remediation.

8.3 It is further considered that the majority of the points of representation received can be addressed either through the imposition of appropriate conditions in any consent granted for the proposed development, or are not valid or of sufficient weight to justify refusal of the application.

## **9. RECOMMENDATION**

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

## **CONTRARY DECISION NOTE**

Should the Committee agree to refuse the application contrary to the recommendation of the Head of Planning, Development and Building Standards the application would not require to be referred to the Development

Services Committee as such a decision would not represent a significant departure from the development plan.

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

24 September 2004  
HM/HM/SMB  
FV/DVM

#### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters of representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Any person wishing to inspect the background papers listed above, should contact Mr. Hugh Melvin on 01563 555481.

**Implementation Officer: Dave Morris**

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Site of Proposal:	Bank Glen CUMNOCK
Nature of Proposal:	Proposed erection of 4 detached dwellinghouses
Name & Address of Applicant:	Tay Limited Tay House 3 Cathcart Street AYR
Name & Address of Agent:	Drew Deans Design 11 Dryburgh Walk MOODIESBURN

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PPO's Reference: 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 and have approved by the Planning Authority, samples of the external wall finishing materials and roof finish materials to be used in the proposed development.

REASON – In the interests of visual amenity.

2. A minimum of three off-road parking spaces shall be provided for each of the proposed dwellings

REASON – In the interests of residential amenity and public road safety.

3. The private driveway of each dwellinghouse shall be paved for a minimum distance of 2 metres from the edge of the public road carriageway.

REASON – To avoid overcarry of loose material onto the public highway in the interests of maintaining a secure road surface.

4. Any gates shall open inwards away from the public road.

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

5. No surface water shall be allowed to egress onto the public highway.

REASON – In the interests of maintaining a secure road surface.

6. Any future garage shall be set back a minimum of 6 metres from the rear of the carriageway.

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

7. Access to the site shall be taken via a new turning head to comply with the Roads Development Guide 1996 and be formed to the satisfaction of the Planning Authority.

REASON – In the interests of road safety.

8. The proposed access driveways shall be not less than 4.8 metres in length by 2.5 metres in width.

REASON – In the interests of residential amenity.

9. With the exception of investigative works, no development shall commence on site until a comprehensive contaminated land investigation has been submitted to and approved in writing by the Planning Authority. The investigation shall be conducted in line with BS10175: 2001 Code of Practice for the investigation of potentially contaminated sites and will contain details of proposals to deal with contamination (if present) to include:

- (i) The nature, extent and type(s) of contamination on the site;
- (ii) A site specific risk assessment of all relevant pollutant linkages;
- (iii) Remediation measures to treat / remove contamination to ensure the site is fit for the purpose proposed;
- (iv) Measures to deal with unsuspected contamination discovered during the construction works.

REASON – To ensure potential risks arising from previous site uses have been fully assessed.

10. Subject to the terms of condition 9 above and where found to be appropriate, the developer shall, prior to any further development, submit a report confirming that the required remediation works have been carried out in accordance with the remediation plan.

REASON- To provide verification that remediation has been carried out in accordance with the approved remediation plan.

11. Notwithstanding the plans hereby approved, and the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, any domestic garage associated with the development shall be of a permanent construction and finished in the same materials as the dwellinghouse to which it relates.

REASON – To ensure that any future domestic garages within the site are an appropriate match with the approved dwellinghouses in the interests of visual amenity.

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

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

13. Prior to the commencement of development, the developer shall submit to and have approved by the Planning Authority, in consultation with SEPA, the details of a Sustainable Urban Drainage system (SUDs) to be installed and shall specify a programme for the future management and maintenance of the scheme.

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

14. Prior to the commencement of development on site, the developer shall submit to and have approved by the Planning Authority, the details of any additional fencing to be erected within the site.

REASON – In the interests of residential and visual amenity.

15. Prior to the commencement of development on site, the developer shall have submitted to and received the written approval of the Planning Authority in respect of the finished and existing site/floor levels.

REASON – To enable the Planning Authority to retain control of the development in the interests of residential and visual amenity.

#### **NOTES TO APPLICANT**

1. East Ayrshire Council Roads and Transportation Division has advised that Construction Consent will be required for the road works. The Division can be contacted on Tel 01563 555330.
2. The developer should make early contact with Scottish Water and the Scottish Environment Protection Agency regarding drainage of the site and to confirm the request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.
4. The applicant should make early contact with Power Systems and Transco with regard to the protection or diversion of apparatus that may be affected by the proposed development.

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