

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 08 SEPTEMBER 2006

**06/0453/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL
PURPOSES AT BRACKENHILL, AUCHINLECK**

APPLICATION BY JAMES & SADIE CARTNER

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the proposed development of this site for residential purposes for the erection of a single dwellinghouse. The applicants have further indicated that the proposal would include the erection of a workshop/garage. No further details of the proposed dwellinghouse or the workshop/ garage have been submitted at this outline stage.

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 are not of sufficient weight to justify a departure from policy in this case.

3.2 The application under consideration is for the residential development of a site which is well outwith any settlement boundary. The site is within the Rural Protection Area and no sufficient justification has been cited for the development within this rural area. It is not considered that the supporting statement of the applicants is of sufficient weight to set aside the provisions of the development plan. No business plan attesting to the viability or longevity of the enterprise has been submitted.

3.3 In the absence of any specific locational need for this residential development there is no justification for approval which would represent a significant departure from the development plan.

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 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 JAMES & SADIE CARTNER

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 as the application is recommended for refusal, is the subject of objection and the application was called before committee following the weekly recommendation list procedures.

2. APPLICATION DETAILS

2.1 **Site Description:** The proposed site for this residential development is 0.2 hectares in area. It is located on the north side of the C50 road, 600 metres from the A76 between Mauchline and Auchinleck and within the Rural Protection Area. To the north and east of the site is farmland while two modern detached dwellinghouses lie immediately to the west. A mature tree sits on the verge between the site and the C50 road. The main Glasgow to Carlisle railway line passes roughly 80 metres east of the site.

2.2 **Proposed Development:** Outline planning permission is sought for the proposed development of this site for residential purposes for the erection of a single dwellinghouse. The applicants have further indicated that the proposal would include the erection of a workshop/garage. No further details of the proposed dwellinghouse or the workshop/ garage have been submitted at this outline stage.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division has no objection to the proposed development subject to conditions. Access to the site must be taken via a tarred standard driveway access crossing to East Ayrshire Roads Division standards. Visibility sightline splay areas of 2.5 metres by 150 metres will require to be formed and maintained at the new access onto the C50 public road with no

obstruction greater than 1 metre in height allowed within these areas. No surface water must be allowed to discharge onto the public road from the site. A minimum of 3 off road parking spaces will require to be provided for the dwelling. The private driveway will require to be paved for a minimum distance of 5 metres from the rear of the footway to avoid overcarry of loose material onto the public road. Any garages must be set back a minimum of 6 metres from the rear of the footway. Any gates will require to open inwards away from the public road. Access to and egress from the site shall be taken in forward gear. The developer shall form a minimum 2.0 metre wide kerbed pedestrian refuge/verge along the frontage of the site. Any roadside ditch shall be piped and protected beneath the proposed access.

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

3.2 The Scottish Environment Protection Agency has no objections to the proposed development provided foul drainage from the site connects to a septic tank and surface water is discharged utilising SUDS.

A note could be attached to any consent granted to advise the applicant to make early contact with SEPA regarding the drainage of the site and the use of SUDS.

3.3 Scottish Water has no objections but has advised that the applicant must make application to Scottish Water for permission to connect to the public water network.

A note could be attached to any consent granted to advise the applicant to make early contact with Scottish Water.

3.4 Scottish Power Energy Networks has no objection in principle to the proposed development.

Noted.

3.5 Network Rail has no objection in principle but has advised that certain basic requirements must be met to ensure the safe operation of the nearby railway.

A note could be attached to any consent granted to advise the applicant of these requirements.

3.6 Catrine Community Council has not responded to the consultation letter.

Noted

4. REPRESENTATIONS

4.1 A third party representation from 2 signatories has been received with respect to the proposed development and the main points are summarised as follows:-

4.2 The signatories do not appear to be against the principle of what is proposed. They recently enquired about obtaining permission themselves to develop the site in question but were advised that this would not be granted. They point out that others including relatives have made similar approaches and been told the same. They consider it unfair, given their and others interest, that the Council would now consider or grant permission for a house on this plot.

Any enquiry about the residential development of this site would have received the reply that such a proposal was contrary to the Development Plan (see assessment against development plan below) and would be recommended for refusal should an application for planning permission be submitted. While this is likely to discourage most it does not preclude any person from applying and the Council is legally required to consider all such applications and determine them against policy and other material considerations.

4.3 In support of a refusal the signatories point out that the proposed development would be contrary to the Council's houses in the countryside policy and the applicant's claim that this location is essential to assist in developing/expanding a garden ornament making business as well as teaching/making Irish bagpipes has no relevance.

The proposed development site is located within the Rural Protection Area where in line with Ayrshire Joint Structure Plan Policies G5 and COMM5 and East Ayrshire Local Plan Policy RES13 development outwith settlements is only supported if certain criteria can be met. As is highlighted in section 5 below the applicant has failed to demonstrate the businesses mentioned above can only be located in the rural area.

4.4 The signatories believe that sightlines from the railway bridge would not allow a new (access) opening to be formed and as there are no field gates near this plot then no other opening can be made. They also know of a drainage problem in this area of which SEPA is also aware.

Neither the Roads and Transportation Division nor SEPA have raised any objection to this proposal. The Roads and Transportation

Division has advised that visibility splays of 2.5 metres by 150 metres are required and that the driveway should be located next to the existing adjoining property (Bracken View). SEPA advises that foul drainage should connect to a septic tank and surface water should be discharged using SUDS. Conditions and advisory notes could be added to any consent granted for the proposed development to meet the requirements of the Roads and Transportation Division and SEPA.

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 (Approved Version)

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- (i) has a demonstrated site specific locational need;

There is no demonstrated site specific locational need for the house to be located in the rural area.

- (ii) can be justified in terms of social and economic benefit to the community;

This new house in the rural area cannot be justified in terms of social and economic benefit to the community.

- (iii) contributes to rural land diversification: or

This single house in the rural area is not considered to contribute to rural land diversification.

- (iv) provides for the operational needs of agriculture and forestry.

No justification to state that the house is required for the operational needs of agriculture and forestry has been received.

Given that the proposal does not meet with any of the above listed criteria, the proposal is contrary to policy G5.

East Ayrshire Local Plan

5.3 Policy RES13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis for one of four stated purposes.

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property.

Although the applicants have lodged a statement (see Section 6 below for a fuller assessment of it) in support of their proposal it is considered that this fails to satisfy any of the above 4 criteria required by policy RES 13 to justify residential development in the Rural Protection Area. There is no business plan and no persuasive evidence that the small business has any requirement to be located in the Rural Protection Plan.

5.4 The application is contrary to both Ayrshire Joint Structure Plan (Approved Version), the Replacement Ayrshire Joint Structure Plan (Finalised Version) and East Ayrshire Local Plan and is therefore not acceptable in planning policy terms

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the Replacement Ayrshire Joint Structure Plan (Finalised Version), the consultation responses, the representation received and the statement of support by the applicants

Replacement Ayrshire Joint Structure Plan (Finalised Version)

6.2 Policy COMM 5: Housing in the Countryside states throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses. The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential development in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

The proposed house does not fall under any of the acceptable categories of rural housing development listed above therefore the proposal is contrary to Policy COMM 5.

Consultations Responses

6.3 None of the consultation responses have raised any issues which would indicate that the application should be refused although a number of issues remain to be resolved. These could be addressed either through conditions or appropriate notes attached to any consent granted for the proposed development

Representations

6.4 It is considered that the representation acknowledges that the proposed development is contrary to Structure Plan and Local Plan policies applicable to housing development in the Rural Protection Area.

Statement of Support by Applicants

6.5 The applicants claim that a dwellinghouse and workshop/garage on this site would help, after retirement, to expand an existing small business making and selling garden ornaments as well as with the teaching of Irish Bagpipes and ultimately with the manufacture of Irish Bagpipes and reeds. They don't want to start a small business in a private housing estate. There is the future possibility that this might create some employment, (number unspecified) for the area.

It is considered that the production of garden ornaments and teaching/making of bagpipes are not the types of businesses that meet any of the criteria identified by policies G5, COMM 5 or RES 13 as essential if housing development within the Rural Protection Area is to be considered acceptable. There is no demonstrated site specific locational need for these enterprises, and hence for the proposed dwellinghouse, to be located in a rural area. Such

businesses can just as easily operate within a settlement boundary as without it. Consequently the statement of support is not considered to be of sufficient weight to set aside the provisions of the development plan. No persuasive business plan has been submitted.

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 are not of sufficient weight to justify a departure from policy in this case.

8.2 The application under consideration is for the residential development of a site which is well outwith any settlement boundary. The site is within the Rural Protection Area and no sufficient justification has been cited for the development within this rural area. It is not considered that the supporting statement of the applicants is of sufficient weight to set aside the provisions of the development plan. No business plan attesting to the viability or longevity of the enterprise has been submitted.

8.3 In the absence of any specific locational need for this residential development there is no justification for approval which would represent a significant departure from the development plan.

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 significant departure from the development plan.

Alan Neish

Head of Planning, Development and Building Standards

SMcD/HM

FV/DVM

30 August 2006

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Replacement Ayrshire Joint Structure Plan (Finalised Version 2006)
8. Statement of Support by Applicant

Anyone wishing to inspect the above background papers should contact Stephen McDermott on 01563 555485.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0453/OL

Location	Brackenhill Cumnock KA18 2LU
Nature of Proposal:	Proposed development of land for residential purposes
Name and Address of Applicant:	James and Sadie Cartner 38 Grassmillees Way Mauchline Ayrshire KA5 6EJ
Name and Address of Agent	N/A

DPO's Ref: Stephen McDermott

PPO's Ref: Hugh Melvin

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

1. The proposed development would constitute the erection of a dwellinghouse in the countryside without agricultural justification and contrary to the policy criteria relevant in respect of Policy RES13 of the Adopted East Ayrshire Local Plan. The proposal would therefore not be in accordance with Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy RES 13 of the Adopted East Ayrshire Local Plan.
2. The proposed development would constitute the erection of a dwellinghouse in the countryside without agricultural justification and contrary to the policy criteria relevant in respect of Policy COMM 5 of the Replacement Ayrshire Joint Structure Plan (Finalised Version). The proposal would therefore not be in accordance with Policy COMM 5 of the Replacement Ayrshire Joint Structure Plan (Finalised Version).

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