

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 08 SEPTEMBER 2006**

**06/0405/FL: PROPOSED ERECTION OF TWO DWELLINGHOUSES  
AT PLOTS 1 & 2, AUCHENCLOIGH, GALSTON**

**APPLICATION BY ORCHARD HOMES (SCOTLAND) LTD**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the erection of two dwellinghouses on the site. The proposed dwellinghouses are essentially similar being of two storey design with elements of 1½ dormer features. The proposed dwelling on Plot 1 has an attached single storey double garage while the dwelling on Plot 2 has a similar double garage which is linked to the main house by a small utility room. Each of the proposed dwellings has eight apartments. Externally the proposed dwellings would be finished in a white wet dash render incorporating stone features with slate substitute tiles being used in the roof finish.

1.2 The site plans show large extended rear curtilages with some 2100m<sup>2</sup> demarcated for each house as an optional paddock area. This is also shown to accommodate the proposed SUD systems for surface water drainage from each dwelling. Access to the site is to be taken from the U72 public road opposite Muirburn Cottages.

**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 the application; however it is considered that these would not support or justify any departure from policy in this case.

3.2 It is considered that as four new housing units have consent and have been constructed at Auchencloigh since January 1999 the proposed development does not comply with the provisions of policy RES14 and would further constitute an inappropriate extension of development into the countryside from the existing settlement grouping of Auchencloigh.

3.3 The proposed development of the south eastern section of agricultural land adjacent to the U72 public road, would not only set a precedent for further future residential development along this section of road but also seriously impact on the character of the traditional and somewhat unique grouping of dwellings forming Auchencloigh. Furthermore, the proposed development is contrary to the development plan and there is no justification that would warrant a departure from its provisions.

#### **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 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 ORCHARD HOMES (SCOTLAND) 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 a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation, as the proposal is contrary to policy, subject to objection and is recommended for refusal.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site falls within the informal grouping of dwellings forming Auchencloigh approximately 5 miles south east of Galston. Auchencloigh is located within the Rural Diversification Area which is bounded by the nearby B737 public road. The proposed two plots are positioned directly opposite, and to the west, of four semi detached cottages with a further two detached dwellings to the south of these, forming a row of houses named Muirburn Cottages. The site is located to the east of the U72 public road and bounded to the north east by a dwellinghouse named Mareburn. To the south and east both plots are bounded by agricultural ground.

2.2 The red line application site extends to approximately 0.8 hectare with the two plots being of approximately equal size

2.3 **Proposed Development:** Full planning permission is sought for the erection of two dwellinghouses on the site. The proposed dwellinghouses are essentially similar being of two storey design with elements of 1½ dormer features. The proposed dwelling on Plot 1 has an attached single storey double garage while the dwelling on Plot 2 has a similar double garage which is linked to the main house by a small utility room. Each of the proposed dwellings has eight apartments. Externally the proposed dwellings would be finished in a white wet dash render incorporating stone features with slate substitute tiles being used in the roof finish.

2.4 The site plans show large extended rear curtilages with some 2100m<sup>2</sup> demarcated for each house as an optional paddock area. This is also shown to accommodate the proposed SUD systems for surface water drainage from each dwelling. Access to the site is to be taken from the U72 public road opposite Muirburn Cottages.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Sorn Community Council has not responded to the consultation letter at the time of writing this report

#### ***Noted***

3.2 East Ayrshire Council Roads and Transportation Division have no objections to the proposed developments subject to the following road safety requirements being met:

- (i) The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway or service strip to avoid overcarry of loose material onto the public road.
- (ii) Visibility splay areas of 2.0 metres by 60 metres shall be required to be formed and maintained at the access to the U72 public road with no object greater than 1 metre in height allowed within these areas.
- (iii) A 2 metre wide kerbed footway to East Ayrshire Roads specification shall require to be constructed by the developer along the frontage of each plot.
- (iii) The developer is required to widen the existing U72 to 5.5 metres across the frontage of both plots
- (iv) Any garages must be set back a minimum distance of 6m from the rear of the footway
- (v) The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the adjacent footway to avoid the over carry of loose material onto the public road.
- (vi) A minimum of three off road parking spaces are required to be provided within each plot.
- (vii) Any gates will require to open inwards, away from the public road.
- (viii) No surface water must be allowed to discharge onto the existing public road.

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

3.3 The Scottish Environment Protection Agency has no objections to the proposal provided that the foul drainage is connected to the public sewer. SEPA further requests that surface water from the site is treated in accordance with the

principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland published by CIRIA in March 2000.

***The applicant proposes to connect to the existing foul sewerage system and has indicated the use of SUDS for the treatment of surface water***

3.4 Power Systems has no adverse comments to make on these applications.

***Noted***

3.5 Scottish Water has no objections in principle to the proposed development provided that a separate application is made to Scottish Water Planning and Development Services team for permission to connect to the public wastewater system and/or water network. In addition, a separate drainage system may be required with respect to the surface water discharge from the site.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 One letter of representations has been received with regard to the proposed development. The main points of objection are summarised below:

4.2 Planning permission on this same site was refused on 27 January 2006. The previous application did not meet the provisions of Policy G6 of the Ayrshire Joint Structure plan or was justified within Policy RES14 of the East Ayrshire Local Plan. On this occasion the developer has proposed two dwellings on plots more than twice the size previously planned. This appears more inappropriate under the restrictions for which permission was previously refused in January.

***Regardless of the proposed size of plots, the development remains contrary to policy as indicated in Section 5 below.***

4.3 The proposed dwellings are too large and out of proportion to the one immediately adjacent.

***It is considered that the proposed dwellings are large units but in terms of scale, design layout and location, the proposed dwellinghouses are considered to be acceptable and generally in accordance with the Council's Design Guidance.***

4.4 The plot areas for each house are also greatly out of proportion in the landscape. They are four times that of their neighbours. The topography of the site does not lend itself to such a large development as the land here slopes to

the south east and the plots are clearly visible to the busy B7037 Galston to Sorn Road. This will be a great imposition and not in keeping with the surrounding landscape.

***It is agreed that the large size of the plots could have some impact on the landscape particularly in the absence of any particular boundary treatment. The applicant has specified 1 metre high post and rail fencing. However, it is considered that appropriate conditions could be attached to any consent granted to address issues of boundary treatment including if necessary the introduction of trees and hedgerows.***

4.5 The additional areas marked as paddock is not enough to support a grazing animal.

***Noted.***

4.6 The volume of traffic passing my home has increased unbearably and although the Council does not consider this as an issue here, it greatly affects our lives and is also an issue of national debate in general. The proposed dwellings are shown as having parking for 4 vehicles and a double garage per dwelling. This will greatly increase pressure on an already busy road bearing in mind that outline consent has already been granted for 5 crofts. Living here is going to be a miserable experience.

***The Roads and Transportation Division has provided detailed comments on this application and has no objections to the proposal subject to appropriate conditions, which include the widening of the U72 public road immediately in front of the two plots.***

4.7 My home had 3 houses completed next door to the east last year which has robbed me of my countryside location to the side and rear. The proposed buildings across the road will complete this to a housing estate effect. I will no longer have the house in the countryside that I purchased.

***Noted.***

4.8 The increase in the number of homes in Auchencloigh served by the road on which I live has been from 11 when we arrived to 16 today with outline consent granted for a further 5 dwellings, just seems too rapid an expansion and detrimental to the countryside.

***As Auchencloigh is not delineated by a formal settlement boundary, under policy RES 14 of the East Ayrshire Local Plan this would allow the further extension of the existing grouping of houses by a maximum of four new units. As this has now been achieved since***

***January 1999, any additional housing units would be contrary to the Local Plan which has provisions for extending such groupings of houses but recognises the need to restrict the level to maintain the community's traditional character.***

## **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;

***The proposed houses do not comprise an acceptable form of residential development as defined in the local plan***

B provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;

***The proposed houses do not fall into the above category.***

C can be justified in terms of social and economic benefit to the community;

***The proposals are not considered to be of social or economic benefit to the community.***

D contributes to rural land diversification: or

***The construction of houses is not considered to contribute to rural land diversification.***

E provides for the operational needs of agriculture and forestry.

***No supporting information has been submitted to indicate that the houses are required for the operational needs of agriculture and forestry.***

## 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. One of those circumstances is pertinent to the application, this being where:

- (ii) the proposed development 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 stated criteria being met, as follows;
- any proposed expansion of such a housing group being limited to 50% of the total number of dwellings existing in that grouping as of 1 January 1999, up to a maximum of 4 new housing units, subject to the provision of Policies RES15 and 17 below;
  - any development requiring to be appropriate in terms of design to the particular location in which it is proposed;
  - any development requiring to be sensitive to the design and layout of the existing settlement or group of buildings; and
  - any development requiring to meet the standards required by all relevant public and statutory service providers.

***The two dwellings proposed are within an existing group of houses at Auchencloigh. However, the permitted limited addition to the existing group of houses under the provisions of policy RES14 has already been met by consents 99/0213/FL and 03/0536/FL.***

***The proposed development does not comply with the provisions of policy RES14 and would therefore be contrary to the development plan.***

## **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 2006), the consultation responses, the representation, the impact on the amenity of the area, the planning history of the site and the applicant's statement of support.

## Replacement Ayrshire Joint Structure Plan

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 houses would be located at an existing group of houses at Auchencloigh and therefore would, in principle, conform to the finalised structure plan. However the permitted limited addition to the existing group of houses has already been exceeded by consents 99/0213/FL and 03/0536/FL.***

## Consultations Responses

6.3 The consultation responses received would not indicate that the application should be refused.

## Representations

6.4 The third party representation received indicates concern with respect to the issues resulting from the proposed residential development of the two plots. However, even though these issues have been sufficiently addressed in Section 4 of the report it is considered that they should carry sufficient weight to support refusal of the application.

## Impact on the amenity of the area

6.5 It is considered that the proposal represents an inappropriate and unjustified form of development within the rural environment which would impact on the visual amenity of the immediate area and set an undesirable precedent for future development of the immediate countryside.

## Planning History

6.6 Two separate outline applications for the erection of a total of two dwellings on a smaller area forming part of the current application site were refused on 27 January 2006 (Ref. Nos. 05/1126/OL and 05/1135/OL) as being contrary to the provisions of the development plan.

## Statement of Support

6.7 The applicant has submitted a detailed letter in support of the application, undertaken by a Planning Consultant in an attempt to try to justify the development of the proposed two plots. This has been summarised with the conclusions noted below:

- Auchencloigh is not currently recognised as a settlement within the development plan although representations have been made to the Council for this possibility to be considered within the context of the alteration process. The proposals, while contrary to the Development Plan do not constitute a significant departure and would not, if approved, significantly undermine relevant policies and thereby reduce their robustness in responding to situations elsewhere.
- SPP15: Planning for Rural Development repeats statements made in SPP3: Planning for Housing re "clusters and groups in close proximity to settlements. Auchencloigh has now developed beyond the type of cluster i.e. 3-4 dwelling units generally referred to, but the proposed development site offers to consolidate development in physical terms within Auchencloigh. Paragraph 37 states that permission should be granted for development which conforms to the principles and objectives described in the statement irrespective of the stage reached by the development plan making process.
- Auchencloigh occupies a slightly anomalous position in that it now has the characteristics of a small settlement rather than a group of houses in the countryside. While the primary Structure Plan Policy G6 is restrictive the "philosophy" of which is reflected to a degree in Local Plan Policy SD4, the proposals can be seen to be generally in line with the requirements of Local Plan policies RES15 and 17.

***Under the provisions of Policy RES14 of the Adopted East Ayrshire Local Plan 2003 an additional four new dwellings have been created within Auchencloigh and as correctly mentioned Auchencloigh is still not classified as a formal settlement. The review process of the Local Plan is at an early stage, the plan itself only being three years old.***

- The proposals would in effect help consolidate the "urban form" of Auchencloigh and the proposals would be sustainable here on a range of measurements with requirements re sustainability. Auchencloigh is not currently served by public transport but SPP15 states that "Development Plans should be realistic about the availability or likely availability of

alternatives to access by car as not all rural development locations are able to be served by public transport....” In the final analysis, Auchencloigh is only 5 miles from Galston which is to become a major service centre and the proposals would not significantly impact on the B7037.

***The applicant has not submitted a detailed sustainability appraisal or any evidence to substantiate the claim that the proposal would be “sustainable on a range of measurements.”***

- While not formally part of the development plan making process, the East Ayrshire Spatial Development Option Paper (December 2004) is important in terms of confirming Council thinking in response to changing policy circumstances. The key phrase in the Spatial Options is “... within the Rural Diversification Area support is given to the sensitive limited expansion of settlements and groups of houses not delineated by a settlement boundary.” Whether Auchencloigh is or is not given a settlement boundary, I believe that on the basis of the conclusions of this audit, a case has been made for the proposals by Orchard Homes (Scotland) Ltd to construct two units.

***The Council’s Spatial Developments Options Paper is a discussion paper only informing the local plan review. Therefore it is not considered relevant to refer to this document in the determination of any planning application.***

***it is not considered that significant weight can be given to the supporting statement as a material consideration which would not therefore justify a departure from the development plan.***

## **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 the application; however it is considered that these would not support or justify any departure from policy in this case.

8.2 It is considered that as four new housing units have consent and have been constructed at Auchencloigh since January 1999 the proposed development does not comply with the provisions of policy RES14 and would further constitute an inappropriate extension of development into the countryside from the existing settlement grouping of Auchencloigh.

8.3 The proposed development of the south eastern section of agricultural land adjacent to the U72 public road, would not only set a precedent for further future residential development along this section of road but also seriously impact on the character of the traditional and somewhat unique grouping of dwellings forming Auchencloigh. Furthermore, the proposed development is contrary to the development plan and there is no justification that would warrant a departure from its provisions.

## **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 East Ayrshire Local Plan.

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

HM/HM  
FV/DVM  
30 August 2006

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Six Letters 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. Supporting Statement prepared on behalf of the applicant.
9. SPP15: Planning for Rural Development
- 10 PAN73: Rural Diversification

Anyone wishing to inspect the above background papers should contact Mr Hugh Melvin on 01563 555481.

**Implementation Officer: Dave Morris**

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0405/FL

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Location	Plots 1 & 2, Auchencloigh GALSTON
Nature of Proposal:	Proposed Erection Of Two Dwellinghouses
Name and Address of Applicant:	Orchard Homes (Scotland) Ltd 5 Townhead, CATRINE KA5 6SF
Name and Address of Agent	N/A

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

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

1. The proposal is for a new residential development in the countryside which does not meet the provisions of Policy G6 of the Ayrshire Joint Structure Plan. It is therefore contrary to the terms of this policy which requires that all five criteria are met in order that the proposal is acceptable.
2. Full planning permission is being sought for a residential development in the Rural Diversification Area for which no justification pertaining to an economic or agricultural need case has been submitted. Policy RES14 of the East Ayrshire Local Plan is supportive of small scale residential developments within the identified Rural Diversification Area only where the proposal falls under one of the categories as stated in the terms of the policy. It is considered that as four new housing units already have consent and have been constructed at Auchencloigh since January 1999 the proposed development does not comply with the provisions of policy RES14 and would further constitute an inappropriate extension of development into the countryside from the existing settlement grouping of Auchencloigh.
3. The proposed development would constitute the erection of two dwellinghouses 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 2006).
4. The proposed development would constitute the erection of two new dwellings in the countryside without a demonstrated, site specific justification.

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