

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 1st JUNE 2001

**00/0713/OL : RESIDENTIAL DEVELOPMENT
AT KILMAURS ROAD, KNOCKENTIBER
BY HEPWORTH PROPERTIES LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.2 Outline planning consent is sought for residential development. The applicant has submitted an indicative layout showing the erection of 32 dwellinghouses within the application site. Details regarding the design of the proposed houses would be submitted at the detailed stage. The applicant is also proposing a community woodland and open space area with a link footpath to the cycle track to the North of the application site. The proposed community woodland and open space areas are not within the application site but within the ownership of the applicant. The applicant has indicated that they would be prepared to enter into a Section 75 legal agreement to carry out the community planting prior to the commencement of development on site to provide environmental benefits to the locality.

1.2 The applicants have indicated that they intend to market the site with a view to selling to a single developer. Access to the site would be taken from one single access point located between Montgomery's Garage and No 2 Fisher Court.

1.3 The applicant has submitted information from a Civil Engineer regarding the ground conditions of the site. There is a mine shaft within the site and this will require to be capped and the ground consolidated. No housing can be built within the 30 metres exclusion zone of the mine shaft. With regard to soil conditions, it is unlikely that the self-consolidation of the soil backfill after opencast working within the site has come to an end. Compacted ground will continue to settle for 10-20 years after compaction. There is no self weight in the upper layers of soil and as such self compaction in these layers is very much reduced or non-existent. It is likely that further consolidation of the fill material placed on the site would be required to allow development for housing and this would only be defined after a detailed site investigation has been completed.

2. RECOMMENDATION

2.1 It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in Section 7.2 above.

3. SUMMARY OF ANALYSIS

3.1 As indicated in Section 5 the proposal is essentially contrary to the policies of the Adopted Kilmarnock Local 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. However as previously indicated the Adopted Local Plan is of considerable age and greater weight should be applied to other material considerations.

3.2 The proposed development is consistent with the policies of EALP as it is an identified housing site. The comments of the consultees and concerns of the objectors can be addressed through attaching conditions to the planning consent if granted. With regard to the past history of the site as an opencast coaling area the developer will be required to cap the mine shaft and consolidate the site. The proposed housing layout will have to be designed around the existing pit shaft.

3.3 The proposal will bring a visual improvement to this area and improve the amenity of the area by the provision of a community woodland and an open space area which will be provided through a Section 75 legal agreement. The Section 75 legal agreement should cover the provision of a community woodland, open space, a link footpath to the Sustrans Irvine to Kilmarnock cycle route and maintenance of these areas.

Alan Neish
Head of Planning and Building Control

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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Report by Head of Planning and Building Control

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 it is a larger scale residential development which accords with the East Ayrshire Local Plan Finalised Version with Modifications, is of area significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located along the Western boundary of Knockentiber and it is the site of a former opencast coal extraction area which has ceased production a number of years ago and has been reinstated. The site presently is rough grassland. The site also includes Hepworths distribution yard which was vacated in December 1999 and a car repairs garage. The site is surrounded to the North and West by agricultural land, to the South by the single storey houses of Fisher Court and, to the East by Montgomery's garage and residential properties.

2.2 **Proposed Development:** Outline planning consent is sought for residential development. The applicant has submitted an indicative layout showing the erection of 32 dwellinghouses within the application site. Details regarding the design of the proposed houses would be submitted at the detailed stage. The applicant is also proposing a community woodland and open space area with a link footpath to the cycle track to the North of the application site. The proposed community woodland and open space areas are not within the application site but within the ownership of the applicant. The applicant has indicated that they would be prepared to enter into a Section 75 legal agreement to carry out the community planting prior to the commencement of development on site to provide environmental benefits to the locality.

2.3 The applicants have indicated that they intend to market the site with a view to selling to a single developer. Access to the site would be taken from one single access point located between Montgomery's Garage and No 2 Fisher Court.

2.4 The applicant has submitted information from a Civil Engineer regarding the ground conditions of the site. There is a mine shaft within the site and this will require to be capped and the ground consolidated. No housing can be built within the 30 metres exclusion zone of the mine shaft. With regard to soil conditions, it is unlikely that the self consolidation of the soil backfill after opencast working within the site has come to an end. Compacted ground will continue to settle for 10-20 years after compaction. There is no self weight in the upper layers of soil and as such self compaction in these layers is very much reduced or non-existent. It is likely that further consolidation of the fill material placed on the site would be required to allow development for housing and this would only be defined after a detailed site investigation has been completed.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads Division have no objections to the amended plans subject to the following conditions:

- (a) The applicant indicates his intention to have the mine shaft capped; this work must be to the satisfaction of the Roads Division due to the proximity to the intended road. A planning condition is necessary that no building work is to commence until the Roads Division have issued a road construction consent that will include a satisfactory method of dealing with the mine shaft.
- (b) The turning head adjacent to Plot 32 appears to project into the existing road verge. There should be 2.0 metre verge retained between the carriageway on Kilmaurs Road and the footway round the turning head. The proposed 2 metre boundary fence should be in this location.
- (c) Visitor car parking spaces should be provided and within the curtilage of each dwelling is acceptable. It should be noted that the parking standard for 4-bedroom dwellings is 3no resident spaces within the curtilage.

- (d) The standard sightline for the new junction should be 2.5 metres by 90 metres and junction radii of 6 metres with a carriageway width of 5.5 metres.
- (e) The internal road layout shall provide traffic calming and turning head provision.
- (f) The cycle track indicated stops at the boundary of the application site leaving a gap to the new Sustrans Irvine to Kilmarnock cycle route. The applicant should provide the missing link to the new cycle track.

The requirements of the Roads Division can be met by either attaching conditions to the planning consent if granted or such details would be submitted at the reserved matters stage. The link of the cycle track to the proposed Sustrans Irvine to Kilmarnock cycle route could be addressed through S75 legal agreement in relation to land within the ownership of the applicant.

3.2 West of Scotland Water have commented that the developer should satisfy by site investigation if necessary that relative levels are such as will allow the development to be connected at a reasonable gradient. Their permission should be sought to connect to the public sewerage system. Sustainable Urban Drainage Systems should be employed on the surface water drainage. The development can be serviced from an existing public water main located in the street adjacent to the site.

A note could be attached to any planning consent if granted to advise the applicant to make early contact with West of Scotland Water regarding their requirements. The applicant has accepted that the requirements of Sustainable Urban Drainage Systems have to be met and a note can be attached to any planning consent advising the applicant to adhere to the principles of Sustainable Urban Drainage System.

3.3 Scottish Environment Protection Agency have no objection provided that foul drainage is connected to the public sewer. They ask that any planning consent to be granted includes a condition requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. Given the previous industrial use of the site, the applicant should investigate the matter of contaminated land, and should this be an issue the remedial measures should not adversely affect the quality of controlled waters in the vicinity.

A note can be attached to any planning consent if granted to advise the applicant that the proposed development should adhere to the principles of Sustainable Urban Drainage. With regard to the matter of contaminated land this can be addressed by attaching a condition to the planning consent seeking further details of contaminants on site and remedial measures to be taken to treat such contaminants.

3.4 Department of Community Services : Environmental Health and Waste Management have no objection to the development of the site subject to no nuisance being caused to adjacent householders from site engineering activities. Any residual site contamination from the operation of the fireclay works should be eliminated in the subsequent void creation and landscaping/restoration works as part of the opencast operation. The development will encompass a number of commercial properties fronting Kilmaurs Road including Montgomery Car Sales, a commercial yard used by a

local roofing contractor and a vehicle repair/bodyshop. They do not consider that any serious conflict should arise so long as the businesses are operated in a satisfactory fashion.

Conditions could be attached to any planning consent if granted to ensure that site engineering activities have no adverse impact in terms of noise, dust and general disturbance on adjacent residential properties and addressing site contamination investigations.

3.5 The Coal Authority have commented that there are 2 mine entries either within or within 20 metres of the site and the site is located within the geographical boundary of an opencast site.

Only one of the mine entries appears to be within the site, however a note can be attached to the planning consent advising the applicant to satisfy himself as to the stability of the site for construction purposes.

3.6 Transco require no mechanical excavation to be carried out within 500 mm of Transco Plant.

A note can be attached to any planning consent if granted advising the applicant of Transco's requirements.

3.7 Scottish Power have no adverse comments to make.

Noted.

3.8 Knockentiber Community Council have commented that this site was opencast coaled and reinstated only 4 years ago and is still 4 feet above original level. This land has a lot further to settle. The only part of the site to have found its level is where House No 18 is indicated on the plan. The reason for that being an underground stream at 320 ft which was piped through that part of the pit. This stream was not re-piped before reinstatement and the water probably comes underground from the Bougher Pit at the Knockentiber North Ayrshire Boundary. This information is from the Treasurer who lived in the village for 54 years. At the position for House 21 under the pavement at No 90 there is a 10 ft by 38 ft deep sump fed by a spring. It used to fill the boilers of the Traction engines which were housed in the building now occupied by Beaty Roofing.

The responsibility to ensure that ground conditions and the stability of the site are acceptable for residential development lies with the applicant. The applicant has however submitted a letter from a civil engineer who has stated that compacted ground after opencast working can continue to settle for 10-20 years after compaction although the rate of settlement is very reduced in the later years. They note that there is no self weight in the upper layers of soil and as such self compaction in these layers is very much reduced or non-existent. They conclude that it is likely that further consolidation of the fill material placed on the site would be required to allow development for housing. This could only be defined after a detailed site investigation has been completed.

4. REPRESENTATIONS

There are 5 objectors to the proposed development commenting as follows:-

4.1 They object to any access whether it be vehicular or pedestrian traffic to the new development being made via Fisher Court.

An indicative layout has been submitted by the applicant showing one single access from Kilmaurs Road between Montgomery's Garage and No 2 Fisher Court. No pedestrian or vehicular access is shown on this plan, however its indicative nature should be borne in mind. A condition can be utilised to preclude any such access within any subsequent detailed application.

4.2 They object to any two storey houses being built immediately to the rear of the houses at Fisher Court.

A condition could be attached to any planning consent if granted to ensure that when full details are submitted all houses adjacent to Fisher Court are single storey in height. The indicative layout submitted indicates an access road immediately adjacent to the rear of the properties at Fisher Court.

4.3 They bought their property 30 years ago to enjoy the peace and quiet of the countryside and now there is this proposal for a large housing development opposite their driveway with all the attendant noise of neighbouring inhabitants.

The proposal is a designated housing site within the East Ayrshire Local Plan Finalised Version with Modifications. The application site was formerly occupied by a bad neighbour use and it is considered that a housing development would have less environmental impact than the former uses. A condition could be attached to any planning consent if granted to ensure that site engineering activities do not have an adverse impact on adjacent residential properties.

4.4 The boundaries of the objectors property are not defined clearly and the access road to their property is not shown on the plans.

The application plans have been amended to take into account the boundary of No 20 Fisher Court. This property is adjacent to the application site. The access road to this property is not affected by the present proposals.

4.5 Gardens of the proposed houses adjacent to the properties on Fisher Court should be "back to back" with the gardens of the properties on Fisher Court.

Such details regarding the siting of the proposed houses will be provided and assessed at the detailed stage.

5. ASSESSMENT AGAINST THE 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 Adopted Ayrshire Joint Structure Plan (1999) and the Adopted Kilmarnock Local Plan (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 The majority of the application site is affected by Policy 5.10.8 of the Adopted Kilmarnock Local Plan which allows for the opencast mining of coal from this site. The remainder of the application site is within the settlement boundary of Knockentiber. The Hepworths distribution depot and the car repairs garage are affected by Policy 4.2.3 which actively encourages the use for appropriate industrial purposes of all vacant industrial buildings in the local plan area.

The application is contrary to the Adopted Local Plan however, Policy 5.10.8 is no longer applicable as the site has been subject to opencast coal extraction in the past and it has been restored and vacant for a number of years.

The part of the site previously used for industrial activities and affected by Policy 4.2.3 would no longer meet modern industrial requirements. Furthermore the former Hepworths distribution depot and the former garage are adjacent to residential properties.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the East Ayrshire Local Plan Finalised Version with Modifications, (EALP) the consultations and representations received detailed above.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP shall be considered a prime material consideration.

6.3 Policy RES 1 of the above Plan encourages and supports residential development of those Development Opportunity Sites identified for housing purposes on the individual Local Plan maps. The sites identified will be reserved for residential and associated recreational and amenity open space development. The application site is identified as being suitable for 32 houses within this Plan and the Council will require through an appropriate Section 75 legal agreement for the area to the north and west of the site extending to the existing field boundaries be planted with trees to meet amenity requirements.

The present proposal is consistent with Policy RES 1 of the above Plan. The applicant has indicated his willingness to enter into Section 75 legal agreement to provide a community woodland and open space as indicated on the submitted plans to meet amenity requirements. The Section 75 legal agreement would address the provision of a community woodland open space and a link footpath to the Sustrans cycle track and the maintenance of these areas.

6.4 The comments of the consultees detailed in Section 3 of the report can be addressed either by attaching conditions or notes to the planning consent if granted or through the submission of details at the reserved matters stage. The concerns of the objectors as detailed in Section 4 of the report have been addressed either by the submission of amended plans or by recommending conditions to be attached to any planning consent if granted.

6.5 The applicant initially objected to the East Ayrshire Consultative Draft Local Plan as they wished to extend the boundaries of the housing site for 15 houses identified in North-West Knockentiber enlarging it to develop some 32 houses. As part of this proposal it was intended to provide a tree screen to the northern boundary of the site. The East Ayrshire Local Plan Finalised Version with Modifications has now identified the site as being suitable for 32 houses and requires through an appropriate Section 75 legal agreement for the area to the north and west of the housing site, extending to the existing field boundaries to be planted with trees to meet amenity requirements. The objection to the East Ayrshire Local Plan has therefore been resolved.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application.

7.2 Legal Implications for the Council would arise from the Council entering into a Section 75 Legal Agreement with the applicant and owners of the land. The Section 75 Legal Agreement would address the provision of a community woodland, open space, a link footpath to the Irvine to Kilmarnock Sustrans cycle track and the future maintenance of these areas.

8. CONCLUSIONS

8.1 As indicated in Section 5 the proposal is essentially contrary to the policies of the Adopted Kilmarnock Local 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. However as previously indicated the Adopted Local Plan is of considerable age and greater weight should be applied to other material considerations.

8.2 The proposed development is consistent with the policies of EALP as it is an identified housing site. The comments of the consultees and concerns of the objectors can be addressed through attaching conditions to the planning consent if granted. With regard to the past history of the site as an opencast coaling area the developer will be required to cap the mine shaft and consolidate the site. The proposed housing layout will have to be designed around the existing pit shaft.

8.3 The proposal will bring a visual improvement to this area and improve the amenity of the area by the provision of a community woodland and an open space area which will be provided through a Section 75 legal agreement. The Section 75 legal agreement should cover the provision of a community woodland, open space, a link footpath to the Sustrans Irvine to Kilmarnock cycle route and maintenance of these areas.

9. RECOMMENDATION

9.1 **It is recommended that the application should be approved subject to the conditions indicated on the enclosed sheet and that the issuing of the Planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal Agreement under Section 75 of the Town & Country Planning (Scotland) Act 1997 with the applicants in respect of the matters detailed in Section 7.2 above.**

Alan Neish
Head of Planning and Building Control

23 March 2001
(PC/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Consultation Replies.
3. Letters of Objections.
4. Adopted Kilmarnock Local Plan.
5. East Ayrshire Local Plan Finalised Version with Modifications.
6. Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Pamela Clifford on 01563 576772.

Implementation Officer: Dave Morris

TP24

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/0713/OL

Site of Proposal:	Kilmaurs Road KNOCKENTIBER
Natural of Proposal:	Proposed Residential Development
Name & Address of Applicant:	Hepworth Properties Ltd And K Gomez Associates C/o Portland Business Centre Portland Road IRVINE KA12 8JE

Name & Address of Agent: AGM Architects
Portland Business Centre
Portland Road
IRVINE KA12 8JE

DPOs Reference: PC/MMM

The above OUTLINE application should be granted subject to the following conditions:-

1. The proposed development shall be carried out in accordance with the application form received on 18 October 2000 and the amended plans and letter received by the Planning Authority on 12 January and 20 February 2001.

REASON To ensure that development is carried out in accordance with the approved details.

2. Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the under-mentioned matters hereby reserved.

- (a) The layout of the site;
- (b) The size, height, design and external appearance of the proposed dwellinghouses/ buildings.
- (c) The means of drainage and sewage disposal;
- (d) Details of the access arrangements;
- (e) The provision for open space;
- (f) The provision for car parking;
- (g) The boundary walls/fences to be erected;
- (h) The landscaping of the site;
- (i) Finished site levels/floor levels.
- (j) The manner whereby the site and proposed houses will be consolidated to enable development on a recently restored former opencast site.

REASON The approval is in outline only.

3. The indicative layout submitted along with the application is for information purposes only and shall not be treated as forming part of the issued consent.

REASON The approval is in outline only.

4. Details to be submitted under Condition 2(a) and (d) above shall include the following road improvements:

- (a) a new junction with Kilmaurs Road with visibility sightlines of 2.5 metres by 90 metres;
- (b) the junction radii to be 6 metres with a carriageway width of 5.5 metres.
- (c) the internal road layout to provide traffic calming and turning head provision.

REASON In the interests of road safety.

5. The development hereby approved and any associated site engineering works shall be undertaken without detriment to adjoining properties by reason of noise, dirt, grit, smell or general disturbance.

REASON To safeguard the residential amenity of the area.

6. Details to be submitted under Condition 2(b) shall allow for the erection of single storey houses only adjacent to residential properties on Fisher Court.

REASON In the interests of residential amenity.

7. No demolition or construction work, site clearance or preparation works shall take place before 07:00 hours and after 17:00 hours on Mondays to Saturdays nor at any time on Sundays.

REASON In the interests of residential amenity.

8. The applicant shall investigate the extent to which the long term usage of the site has resulted in residual site contamination and prior to the commencement of development confirm what remedial measures he intends to pursue in that regard including if necessary the removal from site of any hazardous material by a suitably qualified contractor.

REASON In the interests of residential amenity and public safety.

9. Where the development is to proceed in any manner other than a comprehensive housing development, the details to be submitted further to Condition 2 above shall allow for the approved houses to be finished only in materials drawn from a Limited List of external materials which shall be submitted to and approved by the Planning Authority prior to the commencement of development. This List shall also specify the types and colour of windows to be used.

REASON In the interests of visual amenity of the development and surrounding area.

10. The details to be submitted further to condition 2 above shall allow for there being no vehicular or pedestrian access from the site to the adjacent Fisher Court development.

REASON In the interests of residential amenity.

Notes:

1. Prior to the commencement of development on site, the applicant should satisfy themselves as to the suitability of the site for construction purposes.

2. The developer shall make early contact with the Scottish Environment Protection Agency and West of Scotland Water to confirm their request to utilise a Sustainable Urban Drainage System with regard to surface water and a separate drainage system.

3. Transco require no mechanical excavation to be carried out within 500mm of their Plan.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA