

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 6 DECEMBER 2002

**02/0125/OL: PROPOSED ERECTION OF TWO DWELLINGHOUSE WITH
PARKING AT SPRINGHILL HOUSE, PORTLAND ROAD, KILMARNOCK
BY SPRINGHILL HOUSE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning consent is sought for two detached houses with six ancillary parking spaces. The applicant proposes to access the site from Springhill Place, vehicular access will be restricted into Springhill Gardens via the use of three 900 mm high steel bollards however pedestrian access will be maintained from Springhill Place into Springhill Gardens. The applicant has provided an indicative layout of 2 detached houses of 3 bedroomed accommodation. The house proposed on Plot 1 would be sited at 90 degrees to that proposed for Plot 2. Details of the design of the proposed houses would be submitted at the detailed application site.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report, the application is considered not 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 refused unless material considerations indicate otherwise.

3.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application which in general are not supportive of the application. The proposed development is considered to be contrary to Policy RES 5 of the EALP as the erection of two houses at this location adjacent to the 'B' listed building would have a detrimental impact on its setting and character. The concerns of the objectors regarding access and the condition of the road have either not been confirmed by the Roads Division or are not relevant to the present proposal under consideration.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee as it would not constitute a significant breach of Council policy.

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 application which is to be considered by the Local Planning Committee under the scheme of delegation because it has been the subject of objections and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located in the grounds to the south of Springhill House, Portland Road, Kilmarnock. The relatively level site is approximately 0.041 hectares in area and contains 15 trees which are protected by a Tree Preservation Order. The majority of the site sits some 1.5 metres higher than the existing road level of Springhill Gardens. The site is accessed via Springhill Place which is approximately 3.4 metres wide at this point and has a public footpath on one side only. The site is bounded to the south by terraced and flatted residential units of Springhill Place, to the east by sheltered housing accommodation in Springhill Gardens, to the west by the railway line and to the north by a Category Grade 'B' listed building, Springhill House.

2.2 **Proposed Development:** Outline planning consent is sought for two detached houses with six ancillary parking spaces. The applicant proposes to access the site from Springhill Place, vehicular access will be restricted into Springhill Gardens via the use of three 900 mm high steel bollards however pedestrian access will be maintained from Springhill Place into Springhill Gardens. The applicant has provided an indicative layout of 2 detached houses of 3 bedroomed accommodation. The house proposed on Plot 1 would be sited at 90 degrees to that proposed for Plot 2. Details of the design of the proposed houses would be submitted at the detailed application site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have no objection to the proposed development as shown in amended plans, provided

a legal agreement can be made to allow No. 43 Springhill Place, Kilmarnock access to the proposed parking area.

Noted. Should the Committee be of a mind to approve the application, the issue of any consent can be made dependent upon the prior satisfactory conclusion of a legal agreement as proposed.

3.2 East Ayrshire Council Department of Community Services have no objection to the proposal providing all refuse generated by the proposed works is disposed of to the satisfaction of the Waste Management Authority and under no circumstances should burning of refuse take place on site. They have also indicated that the proposed refuse collection area is acceptable to them so long as the bins are presented on the kerbside at Springhill Place for uplift. The proposed works should be carried out at such times and in such a manner as will not give rise to nuisance.

A note can be added to any grant of planning consent to meet the above requirements.

3.3 East Ayrshire Council Homes and Technical Services object to the proposed development due to the applicant's failure to maintain the access road to Springhill House despite the objector having an obligation to do so. The applicant has never accepted that obligation and continues to argue with us about the fact that he has any responsibility in relation to this matter even though the title deeds, which have been checked by our Legal Services Department, make it perfectly clear that he has a 50/50 obligation to maintain the road. Unless therefore, the development of these houses is accompanied by a clear undertaking to upgrade the road to a proper adoptable standard, HATS object to the proposal. The objection arises from concern for the residents of Springhill Place and Gardens all of whom are elderly, and the increased traffic over this road and the failure by the developer to undertake his maintenance obligations will seriously jeopardise their safety.

The indicated failure of the applicant to honour obligations associated with a previous planning application or under title deeds is not relevant to the present application under consideration. The applicant intends to use the existing vehicular access from Springhill Place and prevent through access from Portland Road to the 2 houses by the erection of 3 bollards.

3.4 East Ayrshire Council Outdoor Services have indicated that they have no objection to the proposal however they would ask that any maintenance or community service account held land which may be damaged by this application should be reinstated to the satisfaction of the Outdoor Amenities Manager or his nominee.

A note can be attached to any grant of planning consent regarding this matter.

3.5 Scottish Water have objected as the existing downstream CSO has been classified as unsatisfactory. Preliminary investigation suggests that upgrading of the sewerage system will be outwith reasonable cost. Increasing in surcharging caused by the proposed development will also be unacceptable.

A suspensive condition can be attached to any grant of planning consent preventing the commencement of the development prior to the connection to the public sewer system being agreed.

3.6 Grange/Howard Community Council object to the proposed development as ongoing construction work would have a seriously detrimental effect on the residential amenity of the residents of both Springhill Place and Springhill Gardens. The resultant development would have a detrimental effect on the visual amenity of the area, as what is at present an open space would be built over. The development would be in close proximity to a stand of mature trees, which is protected by a Tree Preservation Order. Springhill Place is too narrow for traffic and especially construction vehicles to access the site, and these would add a further traffic hazard to an already congested area. There is already approval in place which imposes the condition that, with reference to the entrance from Portland Road “the developer shall ensure that the access road, footpath and lighting is upgraded to a suitable standard by the Roads Division prior to the construction of either of the dwellings (Central Local Planning Committee 19/4/02). If this amended proposal is granted it would seem to discharge the developer from this obligation, leaving the residents of Springhill Place to ensure the continuing hazards of a poorly surfaced access.

The previous planning application was approved at the local planning committee subject to a Section 75 agreement being signed to upgrade the access road. No agreement has thus far been signed and therefore no planning consent has been issued for the previous proposal.

3.7 The Coal Authority and Railtrack have no objection to the proposed development.

Noted.

3.8 Historic Scotland are very concerned to see more development adjacent to one of Kilmarnock’s most important houses and would comment that as this large listed building has very little curtilage ground left any earlier development should not be regarded as justification for more. The Council should take a long-term view of this site and not allow any more housing to encroach on this listed building. Only if the Council were to consider the existing sheltered housing as temporary, and were to plan for their future removal, might one house in the south west corner of the site be acceptable provided it does not break forward of the building line of Nos. 17-24 and does not involve the removal of mature trees.

Noted. In as much as it is unlikely to be acceptable to view the sheltered housing as temporary, the option of 1 house becomes void.

3.9 Scottish Civic Trust have recommended refusal of this application as Springhill House stands on a higher terrace of land than the housing immediately surrounding it, the existing low level units are subservient to it and allow appreciation of its original setting to a degree. They acknowledge that some new housing which appears to be private has been built recently behind a thick and established screen of rhododendrons and other shrubbery. Although on the same level as the house it is well camouflaged. Unlike the most recent development the two houses proposed would be very prominent as they would be on the terrace level with the House, without any established planting to screen them. In this respect they would encroach on the last remaining piece of land that allows the building to be read in its own right. The Trust would therefore prefer that these buildings would not be constructed on the site proposed as they would diminish appreciation of this fine Category B example of classical architecture in Kilmarnock.

It is considered that the erection of 2 houses will have a detrimental impact on the setting and amenity of this 'B' Listed Building.

3.10 Strathclyde Police have indicated that there are no real crime issues associated with the immediate area. The other properties are occupied by elderly residents who enjoy a quite lifestyle. Due to the quiet nature of the area a family with children and their associated friends could greatly alter the current environment affecting the quality of life experienced by the residents.

Noted.

3.11 The Architectural Heritage Society of Scotland have not responded to their consultation letter at the time of writing this report.

Noted

4. REPRESENTATIONS

4.1 There have been 63 letters of objection to this proposed development. (four of which are from Scottish Water, Grange Howard Community Council, East Ayrshire Homes and Technical Services and Scottish Civic Trust which are detailed in Section 3 above. The grounds of objection are as follows:

4.2 The road within Springhill Place is an extremely narrow road, and has trouble coping with its currently extensive traffic, therefore additional traffic would cause even more problems.

The Roads Division have no objection to the proposed development as a further two houses off a private road is considered acceptable.

4.3 The occupant of number 43 Springhill Place parks her car outside her house on this road and therefore no traffic would be able to pass. The proposed parking space for this house would then move her car outwith her view, and she would no longer be able to watch her car. It would then become susceptible to violent acts. All occupants of 18a, b, c & d have vehicles, if they were all parked outside their flats, then the 'T' Junction would be obstructed. The householder at Number 43 Springhill Place has indicated that all the residents of Springhill Place should be allocated parking within the new development not just herself. There is no provision for the parking of other households within this stretch of road which would mean no traffic could pass while cars were parked here.

The Roads Division have no objection to the proposal and recommended that a Section 75 Agreement be entered into to provide a parking place for the resident of 43 Springhill Place, within the new development. This space is to be provided to allow the only resident who would be legally entitled to park in the street to be relocated adjacent to their home. It would not be reasonable to ask the applicant to provide parking for all residents of Springhill Place.

4.4 There has been no provision for the parking of the other households within this stretch of road, which would mean no traffic could pass while cars were parked here.

The Roads Division are content that, beyond their suggestion that 43 Springhill Place be provided with a parking space by Agreement, there is sufficient available parking either on street or in existing driveways such that no further provision is necessary.

4.5 The condition of the Springhill Place road is appalling, with potholes from the start of the street to the end. The grass verges are also in distress, due to the Bin Lorries, Dial-a-Bus and the Library Bus trying to make their way from one end of the street to the other. This road has required upgrading for some time now, and as the problem is still evident, more traffic will only increase the damage to the road.

The condition of the public highway is outwith the realm of this application and the applicant cannot be held responsible for its current condition.

4.6 The position of these houses means that they are now encroaching into the sheltered accommodation area and the views from houses numbers 20, 21, 22, 23 and 24 are blocked completely. The residents of this area enjoy the grassed areas and do not want to see them destroyed.

The provision of two additional housing units within this location is acceptable in terms of the Development Plan however the level at which these units are to be located would have a detrimental impact on the visual amenity and character of the area. The close proximity of the proposed development to the listed building will have a detrimental impact on the setting of the Listed Building. There is no specific right to a view.

4.7 The first planning application took into account the upgrading of our road. Will this clause still be valid? Extending Springhill Place into Springhill Gardens takes away from the privacy of the elderly disabled people living in this complex.

The requirements linked with the previous planning application are not relevant to this application. This present application takes vehicular access for the houses from Springhill Place to the south and does not create regular additional vehicle movements through Springhill Gardens.

4.8 Plot 2 would not integrate well within the complex as there would be a gable end of the house facing the complex. This development would appear to be very much out of character with the adjoining nursing home.

The proposed development would have a detrimental impact on the listed building.

4.9 There are 48 flats and 17 bungalows within this proposed area. Most have cars, and all have friends and family who visit all bringing cars. All the cars must park on the road, as only one bungalow has a runway. As the road only has the capacity for two cars to pass while cars are parked on the road this means that the road is reduced to a single lane due to the parked cars.

The Roads Division have not offered any objections to the proposed development.

4.10 At present there are vehicles that try to avoid the traffic lights at the North and South Hamilton Street junction by using the Springhill Place road. As these cars try to use the Springhill Place road to avoid these lights they will not know there are bollards in place until they have passed through the old gate and into the Springhill Gardens area. They would then have to reverse back out along this narrow road to turn. As there is no footpath here, the elderly in the area must use this road therefore posing a health and safety problem for them as reversing vehicles could knock them down. Access should be taken from Springhill Gardens and the Gate at the top of Springhill Place should remain closed.

A condition could be attached to any grant of planning consent regarding the provision of road signage to ensure that motorists are aware that Springhill Place is a no through road.

4.11 To supply gas to these houses, they will have to tap into the main valve at the bottom of the wooded area and will then disturb the roots and the trees could become dangerous. The proposed car parking and refuse storage will damage the roots of the trees.

A condition can be attached to any grant of planning consent to ensure that any works carried out as part of this development near trees complies with BS 3857 for construction works near trees.

4.12 The applicant is unable/refuses to maintain the current entry to the garden in spite of numerous requests and they are concerned this will also be the case with the new access.

This is a separate legal matter between the applicant and the residents and is not of direct relevance to this application which must be judged on its own merits.

4.13 New houses would house young families with young children: this would not be conducive with existing residents, many of whom are blind, deaf or in wheelchairs in Springhill Gardens.

The mixture of different age groupings within residential areas can result in both positive and negative impacts on the social environment.

4.14 The proposed bollards will cause a hazard to disabled persons. The entrance to No. 24 Springhill Gardens would be restricted as they would be unable to drive their specially adapted car to their pathway.

The proposed bollards will restrict vehicular access from Springhill Gardens to Springhill Place but pedestrian access will not be restricted. Access to No. 24 Springhill Gardens will still be maintained from Springhill Gardens.

4.15 To close off the road would split the Community. Springhill Gardens does not incorporate a safe pavement from Portland Road and the access road is full of deep potholes providing further hazard to residents. This would appear to demonstrate a clear lack of commitment by the developer to maintain and provide a safe exit and entry to the existing site. Increased vehicular traffic would not be in the best interest.

Vehicular access to the two housing plots will be from Springhill Place. The condition and lack of footway along Springhill Gardens is an existing situation and is outwith the consideration of this present proposal.

4.16 The two houses will be built on top of tree roots and as these trees are protected by a Tree Preservation Order who is going to ensure that they are

not damaged? The car parking spaces will damage the roots of the trees. The refuse area will be on top of the roots of the trees.

The Council Outdoor Services have offered no objections to the proposed development as the proposed development will not adversely affect the roots of the existing trees if the houses are carefully located within the plots. The submitted details are for indicative purposes only at this stage.

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 Kilmarnock Local Plan, (1985). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Policy 4.1.5 of the Adopted Kilmarnock Local Plan is relevant and states that within urban areas housing development will be permitted for a maximum of 10 dwellings where the site is not more than 0.5 ha in area and is not likely to be detrimental to or be adversely affected by adjacent uses.

The proposal would have a detrimental impact on the setting of the adjacent 'B' listed Springhill House given its close proximity to the listed building.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications (EALP), consultations and representations which are detailed in Section 3 and 4 of the report and planning history.

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 should be considered a prime material consideration. Policy RES 5 of the EALP is relevant and states that the Council will be supportive of the subdivision of existing house curtilages for the development of dwellinghouses subject to the following criteria being met:-

(i) The proposal is fully in keeping with the existing residential character and appearance of the area within which it is located.

The proposed development would have a detrimental impact on the setting of the adjacent Listed Building

(ii) The proposal meets all the design requirements of the Council and does not create unacceptable damage to the amenity of the surrounding properties.

It is considered that the proposed development will detract from the setting and character of the listed building thereby having a detrimental impact on the visual amenity of the area.

(iii) Acceptable levels of privacy are maintained to neighbouring properties and to the new housing proposed.

Although the proposed two houses could be sited without having a detrimental impact on the privacy of neighbouring properties, the development generally conflicts with policy RES 5 as a whole.

6.3 Policy ENV 4 of the East Ayrshire Local Plan states that the Council will seek to ensure that all development affecting the setting of a listed building is sympathetic to the building concerned.

Notwithstanding that this is an outline application, the proximity of the site to the Grade 'B' listed building would result in a relationship detrimental to the character of that building and its setting.

Planning History

An outline planning application (98/0840/OL) for the erection of two dwellinghouses was considered by the Central Local Planning Committee on 20 April 1999 and it was resolved to grant planning permission subject to conditions and a Section 75 Agreement under the Planning Act relating to the upgrade of the access road from Portland Road. To date no such planning agreement has been signed and therefore the planning consent has not been issued. The applicants have very recently contacted the Planning and Building Control Division with a view to advancing the agreement such that the previous approval can be issued.

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 is indicated at Section 5 of the report, the application is considered not 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 refused unless material considerations indicate otherwise.

8.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application which in general are not supportive of the application. The proposed development is considered to be contrary to Policy RES 5 of the EALP as the erection of two houses at this location adjacent to the 'B' listed building would have a detrimental impact on its setting and character. The concerns of the objectors regarding access and the condition of the road have either not been confirmed by the Roads Division or are not relevant to the present proposal under consideration.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated 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 and Building Control, the application would not require to be referred to the Development Services Committee as it would not constitute a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control
28 November 2002 (PC/SA)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Certificates/Notices.
3. Statutory Consultations.
4. Letters of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted Kilmarnock Local Plan.
7. Finalised East Ayrshire Local Plan with Modifications.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above background papers should contact Pamela Clifford on (01563) 576772.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

02/0125/OL

Site of Proposal: Springhill House
Portland Road
KILMARNOCK

Nature of Proposal: Proposed erection of 2 No. Dwelling houses

Name & Address of Applicant: Springhill Homes Ltd
Springhill House
80 Portland Road
KILMARNOCK KA1 2BS

Name & Address of Agent: Douglas McEwan
21 Boyd Street
PRESTWICK KA9 1JZ

DPOs Reference: PC/SA

The above OUTLINE application should be refused on the following grounds:

- (1) The erection of the two proposed dwellinghouses at this site would be contrary to Policy RES 5 of the East Ayrshire Local Plan Finalised Version with Modifications and would have a detrimental effect on the character and setting of the adjacent Category 'B' listed building and the amenity of the area.
- (2) The development of the site for two dwellinghouses would be detrimental to the setting of the adjacent category 'B' listed building and thereby contrary to Policy ENV 4 of the East Ayrshire Local Plan Finalised Version with Modifications.

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