

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 21 MARCH 2003**

**02/0802/OL: PROPOSED OUTLINE PLANNING PERMISSION FOR NEW  
HOUSES AT VACANT GROUND, ARRAN AVENUE, KILMARNOCK  
BY MRS L A BARNES**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for residential development. No details regarding the number, layout, size, height or design of the dwellinghouses have been provided at this stage and these be submitted as part of any reserved matters application. Access to the site would be from Arran Avenue.

#### **2. RECOMMENDATION**

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

#### **3. CONCLUSIONS**

3.1 As is indicated at Section 5 of the report the application is considered to be in accordance with the Adopted Local Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application and they are supportive of the application. The proposal complies with Policy RES4 of the East Ayrshire Local Plan. The proposal is acceptable in principle and it is not considered that it will detrimentally affect surrounding residential properties in terms of amenity or road safety. The application site was previously intended to provide recreational/open space for the housing development to the north, however it has never been used formally for recreational open space purposes and is the subject of only very limited maintenance. The development of this site for residential purposes is considered acceptable provided a formal area of open space which shall incorporate a play area is integrated as part of the housing development. This would allow the replacement of a vacant unused area with a development which incorporates a useable area of open space.

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as there would be no 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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CENTRAL LOCAL PLANNING COMMITTEE: 21 MARCH 2003

### 02/0802/OL: PROPOSED OUTLINE PLANNING PERMISSION FOR NEW HOUSES AT VACANT GROUND, ARRAN AVENUE, KILMARNOCK BY MRS L A BARNES

#### 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 because it is of area significance and is subject to objections.

## 2. APPLICATION DETAILS

2.1 **Site Description:** The application site is 0.496 hectares in area and is a vacant grassed area which rises in level to the middle of site, falling in height towards the houses on Castle Drive. The site is surrounded to the west, east and south by dwellinghouses, to the north by the Western Road and then an open space area. The application site was an open space area for the houses built in the late 1980's and 1990's to the north-east of the site.

2.2 **Proposed Development:** Outline planning permission is sought for residential development. No details regarding the number, layout, size, height or design of the dwellinghouses have been provided at this stage and these be submitted as part of any reserved matters application. Access to the site would be from Arran Avenue.

## 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division have no objections to the proposed development provided there is no direct vehicular access onto the Western Road and the existing pedestrian link is maintained and included in any future design.

***The requirements of the Roads Division can be met by attaching conditions to any grant of outline planning consent.***

3.2 Scottish Water objects whereby the proposed development drains to the public sewerage system due to the cost of providing infrastructure to service the development. They would remove their objection if the applicant bears the cost of the increase in capacity of Scottish Waters existing infrastructure to accommodate

their development and/or promotes a scheme that does not compromise the quality and quantity of discharge from the existing sewerage system.

The proposal may also involve building over or in such a way as to obstruct access to an existing public sewer and the applicant should contact them in order to ascertain if diversion or protection is appropriate.

***Whilst the objection is noted, it is recognised that these are circumstances where development could proceed. The requirements of Scottish Water should therefore be met by attaching a condition and note to any grant of outline planning consent.***

3.3 Scottish Environment Protection Agency (SEPA) have no objection given foul drainage being connected to a public sewer and have recommended that surface water from the site is in accordance with the principles of Sustainable Urban Drainage Systems Design Manual.

***The requirements of SEPA can be addressed by attaching an appropriate condition and notes to any grant of outline planning consent.***

3.4 The Coal Authority have indicated that there is 1 metre entry within 20 metres of the site and a prudent developer should seek appropriate technical advice before works are undertaken on site.

***The applicant is aware of the stability issues regarding the application site. They have commissioned a mining report for the site regarding consolidating the underlying old workings.***

3.5 Transco and Scottish Power have no adverse comments to make regarding the proposed development.

***Noted.***

3.6 East Ayrshire Council Outdoor Services have advised that they maintain this site and it receives only 2 cuts per year due to what is believed to be unopened mine workings under the site. They believe that this is the reason why no building work has been carried out in the past on this ground.

***See response to 3.4.***

3.7 The North West Community Council have not responded to their consultation letter at the time of writing this report.

***Noted.***

#### 4. REPRESENTATIONS RECEIVED

4.1 There are 9 objectors to the proposed development (one of which is from Scottish Water which is detailed in Section 3.2 of the report). The grounds of objection are as follows:

4.2 Major water flooding in the back gardens of adjacent houses at present in the winter months. The application site sits significantly higher than adjacent properties and any development will, with walls and top soil added, raise the ground level causing greater problems than present.

***This is a matter which will be fully dealt with at the detailed stage to ensure that any additional surface water caused by the development is not directed into the adjacent properties. However, a condition can be attached to any grant of outline planning consent to ensure that measures are submitted to prevent the displacement of surface water to adjacent properties.***

4.3 There are mine workings on the site and as they have been undisturbed for a substantial period of time and no remedial work has been carried out, the full effects of any such disturbance are unknown and may present a risk to neighbouring properties, their foundations and garden grounds.

***The applicant is aware of the stability issues at the site. They have commissioned a mining report which states that the application site should be regarded as potentially unstable unless the underlying old workings in the coal seams are consolidated by artificial means. The onus is on the developer to satisfy himself/herself about the stability of the site.***

4.4 There are no details of the proposed type of housing, number of plots, style etc. It would be impossible to make a judgement regarding the other effects of such a development for instance, increase in traffic via Arran Avenue, noise, restriction of natural light to existing property and privacy issues.

***This is an outline application dealing only with the principle of residential development on the site. Details of the number, design, height and layout of the houses will be submitted at the detailed stage and adjacent residents will have an opportunity to submit their comments on these matters at that stage.***

4.5 Noise and disruption of major building will intrude into their houses for a significant period of time not to mention the dust, dirt and unacceptable noise generated during the development and building of the proposed site. The safety of the children of Castle Drive and the surrounding area in respect of any future construction work or machinery.

***It is acknowledged that there will be some noise and disturbance to adjacent houses during construction works, however this will be of a short term nature. A condition can be attached to any grant of planning consent restricting construction work to standard working hours.***

4.6 The intrusion of privacy of houses sitting above the existing houses on a permanent basis directly looking into their bedrooms and back gardens or conservatory causing worry and great anxiety to adjacent residents.

***This matter can be dealt with at the detailed stage when the layout and design of houses are submitted and inter relationships fully addressed.***

4.7 The proposed development will significantly devalue adjacent houses.

***The impact of the development on the value of adjacent houses is not a material planning consideration.***

4.8 The residents of Castle Drive were led to believe that there would not be any future construction on this ground as it had been deemed unsuitable for building due to the underlying conditions of the ground in question.

***The applicant has commissioned a mining report and is aware of the instability problems of the site. It states that the site should be regarded as potentially unstable unless the underlying old workings in the seams are consolidated by artificial means. The onus is on the developer to satisfy himself/herself as to the suitability of the site.***

4.9 Access to the Western Road shall be included in the proposed development.

***A condition can be attached to any grant of planning consent to ensure pedestrian access is retained to Western Road.***

4.10 A letter of support has also been submitted welcoming the development of this land for housing on the basis of increased security and enabling diversion of Council funds to better use elsewhere; rather than maintenance of the site.

## **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 are 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 Kilmarnock Local Plan which was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, in terms of the above plan, the development of the site for housing purposes is acceptable in terms of Policy 5.1.1 of the Adopted Kilmarnock Local Plan.

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

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

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 as a prime material consideration. Policy RES4 is directly relevant.

6.3 Policy RES4 encourages sympathetic residential development of gap, infill or other redevelopment sites subject to an assessment of the proposal against the surrounding natural and built environment and adjacent uses, transportation and infrastructure implications and in terms of compatibility with surrounding densities and housing types and compliance with the Council's Design Guidance.

***It is considered that residential development can proceed without having an adverse impact on surrounding uses as the neighbourhood is largely residential in nature. The application is in outline and as such, no design and layout details have been submitted at this stage. The principle of housing development in this location is acceptable and complies with the above policy.***

6.4 Policy TLR5 states that the Council will request all potential developers of residential sites comprising 4 or more houses to enter into a Section 75 agreement with the Authority to make a contribution towards the provision of appropriate leisure and recreational facilities within the area to which the development relates. Contributions will be at a level to be agreed by Council based on the expected number of houses and the level of need in a particular area for particular facilities. The Development Services Committee in June 2001 agreed that the contribution would be equivalent to 1% of construction costs.

***The applicant has indicated that they do not wish to contribute due to the application being for outline approval. They may re-evaluate this decision at the detailed stage.***

6.5 It is not considered that any aspects of the consultations or representations received indicate that the application should be refused.

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

7.1 There are no financial or legal implications for the Council in the determination of this application. Clearly, the maintenance of the site would no longer require to be undertaken by the Council.

## **8. CONCLUSIONS**

8.1 As is indicated at Section 5 of the report the application is considered to be in accordance with the Adopted Local Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 As is indicated at Section 6 of the report, there are material considerations relevant to this application and they are supportive of the application. The proposal complies with Policy RES4 of the East Ayrshire Local Plan. The proposal is acceptable in principle and it is not considered that it will detrimentally affect surrounding residential properties in terms of amenity or road safety. The application site was previously intended to provide recreational/open space for the housing development to the north, however it has never been used formally for recreational open space purposes and is the subject of only very limited maintenance. The development of this site for residential purposes is considered acceptable provided a formal area of open space which shall incorporate a play area is integrated as part of the housing development. This would allow the replacement of a vacant unused area with a development which incorporates a useable area of open space.

## **9. RECOMMENDATION**

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

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as there would be no significant breach of Council policy.

**Alan Neish**  
**Head of Planning and Building Control**

4 March 2003

(PC/MS)

FV/DVM

## **List of Background Papers**

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

Anyone wishing to inspect the above papers please contact Pamela Clifford (01563) 576771.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 02/0802/OL

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Location: Vacant Ground At Arran Avenue  
KILMARNOCK  
KA3 1TN

Nature of Proposal: Proposed Outline Planning Permission for New Houses

Name & Address of Applicant: Mrs Lesley-Ann Barnes  
Old Haw House  
Pleasanton  
BLACKBURN  
PB2 6RJ

Name & Address of Agent: Nicoll Design  
184 Main Street  
PRESTWICK  
KA9 1PG

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DPO's Ref: PC/MS

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 10 October 2002 and the amended plan received by the Planning Authority on 9 December 2002.

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 undermentioned matters hereby reserved.

- (a) The layout of the site;
- (b) The size, height, design and external appearance of the proposed dwellinghouses.
- (c) The means of drainage and sewage disposal;
- (d) Details of the access arrangements;
- (e) The provision for open space and associated maintenance arrangements;
- (f) The provision for car parking;
- (g) The boundary walls/fences to be erected;
- (h) The landscaping of the site and associated maintenance arrangements;
- (i) Existing and finished site levels/floor levels.

REASON The approval is in outline only.

3. No work shall commence on site until such time as the applicant has provided the Planning Authority with written confirmation from Scottish Water that the sewerage system is capable of accommodating the connection of this approved development.

REASON To ensure that adequate drainage is provided.

4. Before any work commences on site, details of a Sustainable Urban Drainage System and its maintenance following installation, shall be submitted to and approved by the Planning Authority in writing. The Sustainable Urban Drainage System shall thereafter be installed on site prior to the occupation of any of the dwellinghouses.

REASON To ensure that adequate drainage is provided.

5. Details to be submitted under Condition 2(d) above shall include the existing pedestrian link to Western Road which shall be maintained and included in the layout details of any future housing development.

REASON In the interests of pedestrian safety and to allow easy access to Western Road.

6. Details to be submitted under Condition 2(d) above shall ensure that there is no direct vehicular access onto Western Road from the application site.

REASON In the interests of road safety.

7. Details to be submitted under Condition 2(e) above shall include an area of open space incorporating a play area of at least 300 square metres in area. The play area shall include play equipment which shall be approved by the Planning Authority.

REASON In order to provide amenity space for surrounding residential properties.

8. No 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.

9. The development hereby approved shall be undertaken without detriment to neighbouring residential properties by reason of noise, dust or general disturbance.

REASON In the interests of amenity and to prevent such established amenity being adversely affected.

10. The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of road safety and the amenity of the area.

11. Details to be submitted under Condition 2(c) above shall include measures to prevent the displacement of surface water from within the perimeter of the site onto adjoining property both during and after the development has been completed on site.

REASON To prevent the displacement of surface water.

12. Details to be submitted under Condition 2(b) above shall propose a development whose form layout and design reflects and is compatible with the existing houses along Arran Avenue and Manor Avenue.

REASON To ensure high quality development in the interests of visual amenity.

Notes:

1. Prior to the commencement of development on site, the developer should satisfy him/herself as to the suitability of the site for construction purposes.

2. The developer shall make early contact with Transco (0800 800 333) to arrange an on site meeting prior to the commencement of works on site.

3. The developer shall make early contact with the Scottish Environment Protection Agency and Scottish Water to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.

4. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

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