

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 24th OCTOBER 2003

**03/0370/FL: PROPOSED RESIDENTIAL DEVELOPMENT
AT LAND ADJACENT TO ARRAN AVENUE KILMARNOCK**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of 18 dwellinghouses. There are ten semi-detached dwellinghouses proposed of which 6 are 3 bedroom accommodation and 4 dwellinghouses of 4 bedroom accommodation. The semi-detached dwellinghouses are of two and $\frac{3}{4}$ storeys in height. Eight detached dwellinghouses of 4 bedroom accommodation and two-storey in height are also proposed. The eighteen dwellinghouses are to take access from Arran Avenue and will be sited around an access road and hammer head.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree that the Council's position in the current appeal will be that the application should be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

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

3.2 As indicated at Section 6 of the report there are material considerations relevant to this application and they are not supportive of the application. The proposed housing layout fails to meet the criteria of the Roads Division and would have an adverse impact on road safety in terms of the unsatisfactory road layout, the lack of visitor parking, the width and siting of proposed dwellings and the disposal of surface water. The siting of the dwellinghouses adjacent to existing dwellinghouses on Castle Drive is unacceptable and would result in incongruous features which would seriously impair both the visual and residential amenity of these adjacent properties. The applicant has also failed to address measures regarding the displacement of additional surface water and the stability of the mineshaft. The proposed development also fails to provide a useable area of open space and therefore this would leave a large area of existing and new housing with no open space provision. The present proposals are in conflict with the outline planning consent granted in March 2003 as the development of the site for residential purposes was considered acceptable provided a formal area of

open space was provided. The absence of such open space and the size of a number of the gardens also contribute to an overdevelopment of the site.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control it will not require to be referred to the Development Services Committee as there would be no significant breach of 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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**03/0370/FL: PROPOSED RESIDENTIAL DEVELOPMENT
AT LAND ADJACENT TO ARRAN AVENUE KILMARNOCK
NOTIFICATION OF A PLANNING APPEAL**

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to notify the Central Local Planning Committee of a planning appeal on the above application. This report assesses the application in order that the Committee can take a view on the merits of the proposed development which can then be submitted for consideration by the Scottish Executive Inquiry Reporters Unit in their determination of the appeal.

2. APPLICATION DETAILS

2.1 A full planning application was received for the above development at land adjacent to Arran Avenue, Kilmarnock in April 2003. A letter was sent to the applicant requesting that the following matters be addressed – roads issues, open space provision, the displacement of surface water, the location of proposed houses and the treatment of the footpath to Western Road.

2.2 Revised plans were submitted in July 2003 however re-neighbour notification was not carried out despite the number of houses decreasing, the change in house types and the introduction of 300 square metres of open space. Matters such as roads issues, the location of open space, the separation distance between houses and siting of the proposed houses and the displacement of surface water still remained unresolved regarding the revised proposals.

2.3 On 2nd September 2003 the Scottish Executive Inquiry Reporters Unit advised that the applicant was appealing on the basis of non-determination of the application. This appeal against non-determination relates to the original proposal of 18 houses registered in April 2003 and not to subsequent revised proposals. The implication of this appeal against non-determination is that the Council can no longer proceed to determine this application. However the Committee can express a view on the proposal which can be presented to the Scottish Executive Inquiry Reporters Unit.

Members should be aware that because their observations on this proposal will not be received by the Inquiry Reporters Unit within their specified period, it will fall to the discretion of that Unit as to whether they choose to take account of any view agreed. The notification of appeal was received such that the first available Committee on which it could be considered is this Committee of 24 October 2003.

2.3 Site Description: The application site is 1.24 acres in area and is a vacant grassed area which rises in level to the middle of the 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.

2.4 Proposed Development: Full planning permission is sought for the erection of 18 dwellinghouses. There are ten semi-detached dwellinghouses proposed of which 6 are 3 bedroom accommodation and 4 dwellinghouses of 4 bedroom accommodation. The semi-detached dwellinghouses are of two and $\frac{3}{4}$ storeys in height. Eight detached dwellinghouses of 4 bedroom accommodation and two-storey in height are also proposed. The eighteen dwellinghouses are to take access from Arran Avenue and will be sited around an access road and hammer head.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has recommended refusal of the application for the following reasons:-

- The road layout design does not conform to the standards indicated in the East Ayrshire Council Roads Division Guide as a roundel is required at the end of the proposed access road for this type of development. A hammerhead is not acceptable in terms of the Roads Division Guide, as there are often cars parked in the hammerhead and cars using the access road would have nowhere to turn and would have to reverse back on the access road.
- The application site does not connect to an existing public road. That part of Arran Avenue from the junction of Manor Avenue to the application site should be constructed to an adoptable standard.
- No visitor car parking is proposed and all driveways should be 5.5 metres wide to accommodate visitor car parking.
- Where driveway access is proposed between adjoining dwellings the spacing between buildings should be 6 metres minimum (3 metres on each side of the property)
- Details of the disposal of road surface water is not indicated. This must be discharged into a system to be adopted by Scottish Water and include a SUDS system with an overflow facility to ensure that the road drainage works in all conditions.
- The structural stability of the mineshaft adjacent to the site is unknown and could affect the road structure; details of any stabilisation of the shaft should be produced.

The proposed development does not meet the requirements of the Roads Division. As many of the matters raised by the Roads Division involve fundamental details regarding the development it would not be appropriate to address their concerns by merely attaching conditions to any grant of planning consent.

3.2 Scottish Water have advised that their permission should be sought to connect to the public sewerage system and the development may involve building on or in such a way as to obstruct access to an existing public sewer. They recommended the implementation of a Sustainable Urban Drainage System within the proposed drainage design.

It is recommended that a note be attached to any grant of planning consent to advise the applicant of the requirements of Scottish Water regarding connecting, and any obstruction of access to, the public sewer. The requests for SUDS could be addressed by attaching notes and a condition to any grant of planning consent.

3.3 Transco, Powersystems and the Southcraig and Dean Community Council have no adverse comments to make regarding the proposed development.

Noted

3.4 The Coal Authority have advised that there is 1 mine entry within 20 metres of the site.

The applicant has been requested to submit further details regarding the structural stability of the mineshaft adjacent to the site and any necessary treatment works. These details have not been submitted by the applicant. The Roads Division consequently have no information before them to indicate whether there is a risk of the road slipping into the mine shaft.

3.5 Environmental Health and Waste Management Division have no objections but have advised that the works should be carried out at such times and in such a manner as will not give rise to nuisance. The hours of work should be restricted to 7 a.m. – 6 p.m. Monday to Friday and to 7am – 12 noon on a Saturday with no working at all on Sundays. There should be no heavy machinery noise before 8 am on any day. All waste should be disposed of other than by burning. A noise monitoring exercise carried out on the site on 15th May 2003 placed the site in Noise Exposure Category A.

The requirements of Environmental Health could be addressed by attaching conditions to any grant of planning consent. It is however recommended that the permitted hours of work should be 9:00 a.m. to 6:00 p.m. Monday to Friday and 8:00 a.m. to 12.00 noon on a Saturday and no working at all on Sundays to reflect similar permitted hours of work in other development sites adjacent to existing housing.

4. REPRESENTATIONS

4.1 There is one letter of objection from East Ayrshire Council Roads and Transportation Division which is detailed in Section 3.1 of the report.

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 East Ayrshire Local Plan (EALP).

5.2 Policies **RES 4**, **RES 22**, **RES 19**, **TLR 8**, **TLR 9** and **TLR 5** of EALP are specifically relevant in the consideration of this application

5.3 Policy **Res 4** encourages the sympathetic residential development of gap, infill or other redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguard or identified for particular development purposes on the Local Plan maps. Developments will be assessed against the following criteria:-

- (i) Impact on the surrounding natural and built environment and adjacent uses
- (ii) Transportation and infrastructure implications.
- (iii) Compatibility with surrounding densities and housing types.
- (iv) Compliance with the Council's Development Promotion and Design Guidance.

(i) It is considered that the proposed development fails to comply with the above policy, as the proposed residential development will have an adverse impact on the adjacent dwellinghouses located on Castle Drive.

The two dwellinghouses proposed on plots 6 and 7 are only 1 metre away from the rear garden boundary of the dwellinghouses on Castle Drive. It is considered that the close proximity of these elevations will have an overimposing aspect relative to the adjacent dwellinghouse.

(ii) The layout of the proposed development also fails to meet the standards of the Roads Division and could have adverse impact on the road safety of the future occupiers and visitors to the residential development.

(iii) The general design of the houses is considered acceptable, however the density of the development is too high as a number of the housing plots fail to meet the minimum open space requirement in terms of Policy RES 22.

(iv) The development has been assessed against the Council's Design Guidance in terms of Policy ENV 7 and this is addressed in Section 5.9.

5.4 **Policy RES 22** indicates that all developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

The proposed development fails to meet the criteria of Policy RES 22 as eleven of the eighteen dwellinghouses have less than the minimum of 100 square metres of rear garden. There is no justification to relax the above standards in this instance.

5.5 **Policy TLR8** advises there will be a presumption against development on those safeguarded areas of public and private recreational or amenity open space as identified on the Local Plan maps and on other undeveloped land within settlement boundaries which contributes to the setting, character and appearance of the settlement concerned. However, the following types of development on existing areas of maintained amenity or recreational open space will be considered appropriate, subject to compliance with all appropriate Council Development and Promotion and Design Guidance:

- (i) Laying out of new playing fields, bowling greens, putting greens
- (ii) Creation of all weather sports facilities
- (iii) Creation of new children's play areas and
- (iv) Development of pavilions or other ancillary facilities to serve any existing or proposed outdoor sport and recreational activities in the area.

5.6 **Policy TLR9** advises that the development of both private and public recreational or amenity open space for purposes other than those described in Policy TLR8 above, will be permitted only in exceptional circumstances where:

- (i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site and where the development would not adversely affect the overall sporting, recreational and amenity value of the site itself: or
- (ii) Alternative provision of equal community benefit and accessibility can be made available within close proximity to the site: or
- (iii) There is clear, long-term excess of pitches, playing fields and amenity open space in the wider area.

5.7 **Policy RES 19** states that the Council will require all housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. Developers will be expected to pay due regard to the indicative basic standards set out in Schedule 3 of the Local Plan in preparing their proposals, although the precise type, size, location and design of the open space will be dependent on the extent of existing open space provision in the vicinity and recreational and amenity needs of the wider area. Prospective developers are advised to consult fully with the Council's Head of Leisure Services in this regard, prior to formulating their development proposals.

The application site was previously intended to provide recreational/ open space for the housing development to the north east, however it has never been used formally for recreational open space purposes and is subject of only very limited maintenance. 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. Outline planning consent for residential development was granted on 21st March 2003 by the Central Local Planning Committee on this site. The development of this site for residential purposes was only considered acceptable provided a formal area of open space incorporating a play area was integrated as part of the housing development. This would result in the incorporation of a useable area of open space.

A condition formed part of the outline planning consent requiring an area of open space including a play area of at least 300 square metres in area and including the provision of play equipment. This condition was not appealed by the applicant.

The present application under consideration does not include the incorporation of a play area within the proposals and therefore is in conflict with the terms of the outline planning consent and reasoning underlying the grant of outline planning permission.

The applicant has been requested to change the above application to a reserved matters application so it could follow on from the outline planning consent, however this has not been done by the applicant.

The proposed development therefore conflicts with Policies RES 19, TLR 8 and TLR 9 of the Adopted EALP as there is no enhancement of the existing area of open space nor is there any continuation of provision for the houses to the north east.

5.8 **Policy TLR 5** advises that the Council will, subject to the necessary finance being available, improve and enhance the provision of leisure, recreational and sporting facilities in the area settlements and throughout the rural area. In this regard, the Council will request all potential developers of residential sites comprising four or more houses, to enter into Section 75 agreement with the Authority for contributions 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 the Council,

based on the expected number of houses and the level of need in a particular area for particular facilities.

The applicants have not indicated whether they are prepared to contribute to the Sports, Recreational and Leisure Fund in terms of the above policy.

5.9 **Policy ENV 7** requires developers to comply with the Council's Design Guidance in order to ensure that house design of in fill sites recognises and reflects the scale, design features, density and materials of surrounding buildings and reflects and respects the built form of the surrounding area so as to integrate with existing buildings. The height and position of houses should not have an oppressive, overshadowing or visually intrusive impact on neighbouring properties.

It is considered that the siting of the two dwellinghouses in Plots 6 and 7 would have an oppressive and overshadowing effect on the rear gardens of existing dwellinghouses on Castle Drive. This would have a visually intensive impact on these dwellinghouses and therefore the proposed development is contrary to the Design Guidance and Policy ENV 7 of EALP. The density of the development is also considered to be out of keeping with the area, as a number of dwellinghouses fail to meet the minimum open space requirement and the width of the proposed driveways is inadequate.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of this application are the consultations and representations received which are detailed in Sections 3 and 4 of the report and the planning history of the site.

Consultations and Representations

6.2 The concerns of the Roads Division are material in the determination of this application and would warrant a recommendation of refusal as the proposed development would have a detrimental effect on road safety.

Planning History

6.3 Outline planning permission (02/0802/OL) for new houses was granted on 21st March 2003. A number of conditions were attached to this outline consent requiring the following details to be submitted at a reserved matters stage namely:-

- An area of open space incorporating a play area of at least 300 square metres and including play equipment.
- The existing pedestrian link to Western Road being maintained and included in the layout details of any future housing development

- Details of 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.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in considering this application.

8. CONCLUSIONS

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

8.2 As indicated at Section 6 of the report there are material considerations relevant to this application and they are not supportive of the application. The proposed housing layout fails to meet the criteria of the Roads Division and would have an adverse impact on road safety in terms of the unsatisfactory road layout, the lack of visitor parking, the width and siting of proposed dwellings and the disposal of surface water. The siting of the dwellinghouses adjacent to existing dwellinghouses on Castle Drive is unacceptable and would result in incongruous features which would seriously impair both the visual and residential amenity of these adjacent properties. The applicant has also failed to address measures regarding the displacement of additional surface water and the stability of the mineshaft. The proposed development also fails to provide a useable area of open space and therefore this would leave a large area of existing and new housing with no open space provision. The present proposals are in conflict with the outline planning consent granted in March 2003 as the development of the site for residential purposes was considered acceptable provided a formal area of open space was provided. The absence of such open space and the size of a number of the gardens also contribute to an overdevelopment of the site.

9. RECOMMENDATION

9.1 It is recommended that the Committee agree that the Council's position in the current appeal will be that the application should 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 it will not require to be referred to the Development Services Committee as there would be no significant breach of policy.

Alan Neish
Head of Planning and Building Control

10 October 2003
(PC/MMc/SA)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans
2. Statutory Notices and certificates
3. Consultation responses
4. Adopted East Ayrshire Local Plan
5. Approved Ayrshire Joint Structure Plan
6. Planning Application no: 02/0802/OL

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

Implementation Officer: Dave Morris
030370FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0370/FL

Site of Proposal: Vacant ground adjacent Arran Avenue
Kilmarnock

Nature of Proposal: Proposed Residential Development

Name & Address of Applicant: Mrs L A Barnes
Old Hall House
Pleasington

Name & Address of Agent:

DPOs Reference: PC /MMC

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

1. The proposed development is contrary to Policies RES 4 and ENV 7 of the Adopted East Ayrshire Local Plan and would by reason of the siting and location of the dwellinghouses have a detrimental impact on the residential and visual amenity of the adjacent existing dwellinghouses on Castle Drive.
2. The proposed development is contrary to Policy Res 4 of the Adopted East Ayrshire Local Plan as the proposed development would be detrimental to road safety by reason of road layout, lack of visitor car parking provision, and width and location of the driveways.
3. The proposed development is contrary to Policies Res 22 and Res 4 of the Adopted East Ayrshire Local Plan in that the application has not met the minimum private open space standards. Consequently the garden space provided is not of a type and size appropriate to the general area within which it is proposed and does not meet the standards required by the Council under the terms of this policy.
4. The type and number of dwellings proposed exceeds that which can be accommodated within the site whilst maintaining levels of private open space compatible with Council Policy and providing an appropriate level of residential amenity.

5. The proposal constitutes an overdevelopment of the site to the detriment of residential amenity and would set a precedent for further such over development elsewhere in the immediate vicinity.
6. The proposed development fails to provide a play area with play equipment and therefore is contrary to Policies RES 9 and TLR 8 of the Adopted East Ayrshire Local Plan which would leave a large residential development without such facilities to the detriment of residential amenity.

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