

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 13 FEBRUARY 2001

APPEAL DECISIONS 01 APRIL 2000 – 20 DECEMBER 2000

Report by Director of Development Services

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to present to Committee an analysis of Appeal Decisions received from the Scottish Executive.

2. COMMENTARY

- 2.1 Table 1 shows eleven appeal decisions received from the Scottish Executive, all against refusals of planning consent. Seven of the appeals were dismissed and four were sustained.
- 2.2 Of note is that an interpretation of what constitutes a detrimental affect on visual amenity is the determining factor in three of the four decisions where the Inquiry Reporters Unit approved an application contrary to Committee decisions. The fourth sustained appeal relates to road safety, the Inquiry Reporter disregarding the advice of the Roads and Transportation Division on a blind access, advocating instead the use of a mirror, which would not be authorised by the Council as being unsafe.

3. FINANCIAL AND LEGAL IMPLICATIONS

- 3.1 Only one appeal expenses claim was submitted during the period covered; this in respect of the Mauchline Road, Catrine proposal (99/0491/FL). The Reporter found the reason for refusal to be a concise summary of a very compelling reason to regard the proposals as unsuitable and inadequate. It was not found that the Council had acted unreasonably and the expenses claim was rejected.

4. RECOMMENDATION

- 4.1 **It is recommended that the Committee note the contents of the report.**

Stephen Chorley
Director of Development Services
(DVM/MS)
FV-AN
2 February 2001

BACKGROUND PAPERS

- 1. Planning Application Numbers: 99/0612/FL, 00/0021/AD, 99/0572/FL, 99/0715/FL, 99/0367/FL, 99/0119/OL, 99/0379/OL, 99/0170/AD, 99/0491/FL, 00/0168/FL, 99/0678/FL, 98/0582/FL and associated appeal decisions.**

Any person wishing to inspect the background papers listed above should contact Dave Morris on 01563 576753.

Implementation Officer: Alan Neish

TABLE 1

	App No.	Site Address	Proposed Development	Recommendation	Decision	Venue & Decision Date	Appeal Decision	Appeal Decision Date	Expenses Claimed	Expenses Awarded
1	99/0119/OL	Garden Cottage Netherplace MAUCHLINE	Single Dwelling	Refuse	Refuse	Southern LPC 01.07.99	Refuse	25.4.00.	None	None
The dwelling was refused because it would increase traffic on a substandard road, was contrary to Roads policy seeking use of prospectively adoptable roads and was detrimental to residential and visual amenity. The Reporter saw no detriment to amenity but agreed that it would be detrimental to road safety and would be out of character with the area.										
2	99/0379/OL	Low Clews Howford Road MAUCHLINE	Residential Development	Refuse	Refuse	Southern LPC 22.10.99.	Refuse	26.4.00.	None	None
The development was refused because it was in a Countryside Around Towns area without a specific locational need and would lead to an erosion of the amenity and character of the area. The Reporter accepted that it was contrary to the Finalised East Ayrshire Local Plan and there was no specific locational need.										
3	99/0367/FL	Harperbank Grove CUMNOCK	Remove condition 11 to build entrance wall in alternative material	Refuse	Refuse	Southern LPC 27.08.99.	Refuse	04.5.00.	None	None
The proposal was refused because it would be detrimental to visual amenity. The Reporter concluded that the wall should be formed to reflect the wider surroundings and the history of the site										
4	99/0170/AD	6 Loudoun St MAUCHLINE	Two free standing advert units.	Refuse	Refuse	Southern LPC 27.08.99.	Refuse	05.6.00.	None	None
This was refused because the siting, design and finishing materials were all insensitive and inappropriate in an Outstanding Conservation Area and were therefore contrary to Policy, (design guidance). The Reporter concluded that the adverts were incongruous and unacceptably harmful in the area.										

5	99/0612/FL	Blackwood Farm MOSCOW	Change of use to Agricultural, Retail Sales, 4 Greenhouses and parking	Condit Approval	Refuse	Northern LPC 26.11.99.	Condit Approval	27.6.00.	None	None
Reason for Refusal was " The proposed development would be detrimental to visual amenity". The Reporter noted the separation distance between the application site and the nearest residential property, that the site was set in a natural dip, that pollytunnels are common in the country and that subject to landscaping conditions the visual impact could be satisfactorily contained.										
6	99/0491/FL	Mauchline Road CATRINE	20 Dwellings	Condit Approval	Refuse	Southern LPC 17.12.00.	Refuse	05.7.00.	By appellant	No award
This was refused because the linear layout did not readily enable comprehensive development of the site and would be unsatisfactory in the context of visual amenity and in its relationship to the existing road pattern. The Reporter concluded that the division of the total site would have a detrimental affect on road safety, would not match the site's potential for a sympathetic fit into the topography and existing vegetation, would not match the site's potential for integrating recreational facilities with the protection of significant trees and the creation of a pleasant walk beside the burn. In conclusion this was not perceived as a high amenity development.										
7	00/0021/AD	Little Chef A71 KILMARNOCK	Advert Hoarding	Refuse	Refuse	Northern LPC 25.02.00.	Refuse	21.7.00.	None	None
The Hoarding was refused because by virtue of its scale, design and illumination and in the absence of other features of a scale similar to the proposal, it would have a detrimental impact on the amenity of the area; and because being located conspicuously outwith the urban boundary of Kilmarnock its illumination would be detrimental to the surroundings and there was no justification for accepting that impact. The Reporter concluded that the hoarding would add to the existing visual clutter and, that the hoarding would be visually intrusive and out of keeping with the immediate surroundings and therefore contrary to the interests of amenity at this location.										
8	99/0572/FL	31 Titchfield St GALSTON	First Floor Extension	Condit Approval	Refuse	Northern LPC 25.02.00.	Condit Approval	14.8.00.	None	None
The first floor extension was refused because "it would be detrimental to the visual amenity of the area and would result in an unacceptable loss of light to neighbouring properties." The Reporter considered the design of the extension to be sympathetic to the building itself, noted a similar extension across the street, considered concerns about loss of light not to have much substance or to reflect a significant loss of amenity and did not accept there would be additional loss of privacy and amenity.										

9	99/0678/FL	Rear of 15 Orchard Street, Galston	Erection of Detached House	Conditional Approval	Refuse	Northern LPC 25.02.00	Refuse	14.12.00	None	None
The application was refused because "the proposed development would be detrimental to the residential and visual amenity of the area." The Reporter was not persuaded that the appeal proposal would relate sympathetically to the dominant urban form in this established suburban locality, considered that it would introduce an unacceptable form of backland development, would excessively overlook nearby gardens, would adversely affect the long established residential amenity of the area and would set an undesirable precedent. Notwithstanding an approval in 1996, it was stated that a "Reporter has to consider each appeal afresh and has to take into consideration any new policy framework that exists at the time that the appeal is lodged."										
10	99/0715/FL	6 Holm CUMNOCK	Erection of Garage	Refuse	Refuse	Southern LPC 17.12.00.	Condit Approval	15.8.00.	None	None
This garage was refused because of its detrimental effect on the character of the area by virtue of its size, location and character, and because it would set an undesirable precedent. The Reporter concluded that because of the specific configuration of the site and surroundings, it would not be likely to set a precedent and would not be detrimental to the character of the area.										
11	00/0168/FL	Treesbank House KILMARNOCK	Earth Mounding and Fencing	Condit Approval	Condit Approval	Delegated 12.04.00	Withdrawn	07.09.00	N/A	N/A
Withdrawal of the Appeal meant there was no requirement for it to be determined by a Reporter. NO ACTION REQUIRED.										
12	98/0582/FL	6 Fardalehill KILMARNOCK	Alterations and Change of Use from a flat to a house.	Refuse	Refuse	Central LPC 16.09.99	Approve	15/08.00	N/A	N/A
The proposal was refused on the basis of an unsafe vehicular access and this in turn being contrary to Policy HR4 of the Finalised Kilmarnock & Loudoun District Local Plan. Disregarding the opinion of the Roads Division, the Reporter concluded that attainment of the required guidelines would remove established trees, hedge and walling and this would be "regrettable" as well as disturbing the setting of the buildings. the reporter concluded that it <u>was</u> possible to safely exit the premises, despite sightlines being very much short of those required, particularly with the use of a mirror which shall be placed on the opposite side of the road from the access.										

AGENDA