

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - 13 MARCH 2002

APPEAL DECISIONS 01 JANUARY 2001 – 30 SEPTEMBER 2001

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 for the above period.

2. COMMENTARY

- 2.1 Table 1 shows seven appeal decisions received from the Scottish Executive, against refusals of planning, listed building and advertisement consent. Three of the appeals were sustained, three were dismissed and one resulted in the approval of one-out-of-two proposed hoardings.
- 2.2 Six of the seven appeals concerned decisions where both the officer recommendations and the Committee decision were for refusal. The seventh appeal decision at West Main Street, Darvel, followed the initial officer recommendation.
- 2.3 With regard to the appeals sustained, two at Watson Farm, Ochiltree, and 105 King Street, Kilmarnock, demonstrated how, in the absence of a current Adopted Local Plan, it was possible for the appellants to construct a case for approval. The other appeals sustained/partly sustained at West Main Street and at Queens Drive reflect the Reporter attaching different weight to the relative merits of a development.
- 2.4 The Division has also received confirmation from the Scottish Executive regarding the extension of a pilot scheme applying Listed Building Controls to Churches in ecclesiastical use. During a 3 years trial period to the end of 2001, Listed Churches in ecclesiastical use did not have benefit of their longstanding exemption from Listed Building Controls. The further 3 year extension of the scheme allows planning authorities to require applications, carry out consultations and seek amendments from applicants.

The scheme does not however, allow the planning authority to reject a proposal where no amendments/compromise can be agreed. As was the case with an application at the Henderson Church for installation of telecommunications

apparatus, the pilot scheme in these circumstances places the final decision as to whether the works should proceed with a Decision-Making Body (DMB) within the denomination concerned. The DMB should adhere to the normal listed building guidance and the applicants are expected to accept the decision of the DMB.

In the Henderson Church case, the DMB was the Church of Scotland General Trustees' Fabric Committee who rejected the decision of the Central Local Planning Committee that the proposal was unacceptable. In exercise of its powers under the pilot scheme, it chose to approve the apparatus, seeing it as an improvement over that previously on site.

3. FINANCIAL AND LEGAL MATTERS

- 3.1 No expenses claims were submitted further to these seven appeals. In as much as any claim for expenses can be viewed as a measure of how well Council policy and decision making stands up to external scrutiny, it can be assumed that appellants did not consider the Council to have acted unreasonably when determining these applications.

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: 99/0727/FL, 00/0505/FL, 00/0246/LB, 00/0073/FL, 01/0116/AD, 00/0534/FL, 01/0150/AD 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

	<i>App No.</i>	<i>Site Address</i>	<i>Proposed Development</i>	<i>Recommendation</i>	<i>Decision</i>	<i>Venue & Decision Date</i>	<i>Appeal Decision</i>	<i>Appeal Decision Date</i>	<i>Expenses Claimed</i>	<i>Expenses Awarded</i>
1	99/0727/FL	Watson Farm OCHILTREE	Erection of 26 private dwellings	Refuse	Refused	Southern LPC 15.02.00	Approved with Conditions	12.2.01	No	No
<p>This was refused because it was contrary to the East Ayrshire Local Plan with no special local demand or justification, did not accord with the Council's Housing Development Strategy or the Ayrshire Joint Structure Plan and there was sufficient land allocated for housing. The Reporter concluded that the proposal accorded with the development plan, that there was substantial pressure for housing in Ochiltree, that the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan allow for limited growth of the village and that there was no clear evidence of the identified Cairnhall or Brownfield sites being likely to be developed during the EALP period. Only the appeal site offered the prospect of delivering houses in the EALP plan period.</p>										
2	00/0505/FL	16/18 West Main Street DARVEL	Change of use to Hot Food Takeaway, Residential Flat plus 2 dormer and Installation of Flue	Approve with Conditions	Refused	Northern LPC 29.9.00	Approved with Conditions	11.4.00	No	No
<p>This was refused because it would be detrimental to the unique amenity of the central square and would result in a loss of amenity in the surrounding area. The Reporter concluded that this was a mixed use area with no housing particularly close by. He noted the nearby public house and video rental shop, the presence of the A71 linking to the M74 and that there would not be a significant change in terms of activity, noise or disturbance. He saw no reason to reject the proposal on the basis of residential amenity.</p>										
3	00/0246/LB	68 John Finnie Street KILMARNOCK	Erection of Fascia Sign	Refuse	Refused	Central LPC 10.11.00	Refused	8.5.01	No	No
<p>This was refused because the advert was contrary to the East Ayrshire Local Plan (and the Finalised Kilmarnock and Loudoun District Plan) being inappropriate in terms of design, size and materials and detrimental to the listed building and the Conservation Area. The Reporter concluded that Council policies and development control have a positive effect in securing high standard renovation works. The proposal used unsympathetic materials, excessively strong colours and an excessive fascia depth. The lettering was also alien to the character of the area where recent works have made a marked improvement to the quality of the streetscene. The proposal might set an undesirable precedent.</p>										

	App. No	Site Address	Proposed Development	Recommendation	Decision	Venue & Decision Date	Appeal Decision	Appeal Decision Date	Expenses Claimed	Expenses Awarded
4	00/0073/FL	105 King Street KILMARNOCK	Change of use to Amusement Centre with Ancillary sales/catering	Refuse	Refused	Central LPC 7.04.00	Approved with Conditions	9.05.01	No	No
<p>This was refused because it was contrary to Policy RTC 19 of the East Ayrshire Local Plan by introducing an amusement centre prejudicial to the retention and improvement of the range and quality of facilities in the town centre. The Reporter concluded that there was no evidence that the use would prejudice the town centre function, that amusements centres actually attracted custom to town centres and that it made no sense to deny a non-retail use which replaces an existing non-retail use at this site, but to accept the same use where it was a replacement for a different site. The proposal complied with the Adopted Plan. The East Ayrshire Local Plan effectively allows for a doubling of non-retail floorspace in the town centre, but not amusement centres. Such centres would increase the vibrancy of the evening economy and conditions on a consent would secure visual amenity and sound attenuation.</p>										
5	01/0116/AD	Queens Drive KILMARNOCK	Erection of 2 x 48 sheet Advert Hoarding	Refuse	Refused	Central LPC 6.04.01	One of the hoardings Approved with Conditions	20.07.01	No	No
<p>The hoardings were refused because of their detriment to visual amenity, over dominance and unacceptable precedent. The Reporter concluded that the hoarding on the north side of Queens Drive near the Hurlford Road junction would be unduly prominent to the detriment of visual amenity. That on the south side of Queens Drive was considered to be within a more commercial setting. It was this hoarding that was approved subject to it not being illuminated and to a maximum height of 4 metres.</p>										
6	00/0534/FL	Plot 1 Glebe Crescent OCHILTREE	Erection of Bungalow	Refuse	Refused	Southern LPC 6.10.01	Refused	25.07.01	No	No
<p>This was refused because it proposed the erection of a bungalow being ribbon development, in the countryside without agricultural support and on this basis, contrary to the East Ayrshire Local Plan. It would also set a precedent for further ribbon development. The Reporter considered that the proposal was contrary to the Adopted Local Plan and that there were no material considerations, including the East Ayrshire Local Plan, which would justify extending development beyond an established boundary and generating pressure for further piecemeal development.</p>										

	App No.	Site Address	Proposed Development	Recommendation	Decision	Venue & Decision Date	Appeal Decision	Appeal Decision Date	Expenses Claimed	Expenses Awarded
7	01/0150/AD	Bobbin Filling Station Newmilns Road GALSTON	Erection of 1 x 96 sheet Advert Display Unit	Refuse	Refused	Northern LPC 27.04.01	Refused	5.09.01	No	No
<p>The hoarding was refused because it would detrimentally affect the visual amenity of the area, would set a precedent for similar unacceptable proposals and because it served no beneficial purpose and could not be justified on that basis. The Reporter concluded that although the land in the vicinity of the site was mainly commercial, it was on a busy tourist route across the road from a fairly sensitive, Designed Landscape. Whilst hoardings can be acceptable where they screen untidy sites, at this location the proposal would be obtrusive and over-dominant.</p>										
8	00/0818/LB	Henderson Church London Road KILMARNOCK	Installation of Telecommunications Apparatus at existing Telecommunications Installation	Approve with Conditions	Refuse	Central LPC 01.06.01	See para 2.4 of report	24.07.01	No	No
<p>This was considered by the Committee who considered that the proposal should be refused on the basis of its detrimental effect on the character and amenity of the Grade 'C' Listed Building and the area as a whole. In exercise of the controls affecting listed buildings in ecclesiastical use, the Church of Scotland were nevertheless able to approve the development (see 2.4 above).</p>										

AGENDA