

## **EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE : 16 DECEMBER 2003**

### **ENABLING DEVELOPMENT**

#### **Report by Director of Development Services**

#### **1 PURPOSE OF REPORT**

- 1.1** To provide additional guidance for Committee members, planning officers and prospective applicants on Council policy relating to enabling development.

#### **2 BACKGROUND**

- 2.1** Enabling development is the term given to the element of new build that is deemed necessary to make a scheme involving the restoration of a historic building financially viable.
- 2.2** Development, principally housing development, within estate grounds would normally be rejected as contrary to planning policy. Such proposals are put forward and justified on the basis that the public benefit of the preservation of a historic asset outweighs other material interests. There are various examples where a lack of understanding of enabling development by an applicant or a local authority has led to development which has either been unsympathetic to a historic building or has failed to secure its restoration.
- 2.3** Guidance on the policy should encourage consistency of approach and understanding of the concept of enabling development.

#### **3 POLICY BACKGROUND**

- 3.1** There is no dedicated national policy publication specifically related to enabling development in Scotland. However, National Planning Policy Guidelines (NPPGs) provide statements of Executive policy on nationally important land use and other planning matters. NPPG18 'Planning and the Historic Environment' sets out the Executives' planning policy in relation to the historic environment with a view to its protection, conservation and enhancement. Paragraph 56 states that enabling development:

*'should be the minimum necessary to unlock the development potential of buildings or sites and enable their restoration. It should be located and designed to have minimum impact upon the architectural and historic interest, character and setting of the historic environment'.*

**3.2** Scottish Executive Circulars contain guidance on policy implementation. Issues relating to enabling development normally require a Section 75 Planning Agreement (Circular 12/1996) to ensure that both the retention of the historic resource and the enabling development element are acceptable in land use planning terms. In addition to Scottish executive Circulars, English Heritage's Report entitled "Enabling Development and the Conservation of Heritage Areas" , which is a background paper to this report, provides useful guidance.

**3.3** East Ayrshire Council's policy on enabling development is set out in the adopted East Ayrshire Local Plan under policy RES8, which states that:

'Where a proposal relates to an acceptable conversion of a large residential or institutional listed building, an associated but limited enabling development of new build housing may be considered acceptable by the Council, subject to all of the following criteria being met:

- (i) funds raised from the sale of the enabling development are channelled into the conservation of the building to which the development relates;
- (ii) the new build element does not result in the division and fragmentation of the building and its grounds insofar as management of the area is concerned;
- (iii) the developer can demonstrate that financial assistance is not available from any other source;
- (iv) the extent of any new build element is restricted to the absolute minimum to unlock the development potential of the building and to facilitate its restoration;
- (v) the new build element meets the provisions of all other relevant housing policies;
- (vi) the proposed enabling development is located and designed so as to have minimum impact on the architectural and historic interest, character and setting of the historic environment, including any designation of the area as an Historic Garden and Designed Landscape; and
- (vii) the design of the enabling development reflects and compliments the style and design of the original building located on the site.

The policy also states that any permitted enabling residential development will be made the subject of an appropriate Section 75 Agreement regarding the phasing of construction and other related design and layout matters, through the submission of a detailed business plan for the overall development.

## **4 ADDITIONAL INFORMATION FOR APPLICANTS, OFFICERS AND MEMBERS**

**4.1** The consideration of an enabling development application differs from the normal consideration of other planning applications as financial information is a key consideration of such proposals. In meeting the terms of Policy RES8 detailed above, applicants submitting enabling development applications are expected to attach, at the very least, the following information as part of a business plan, to enable proper and full determination of their applications:

- i) Detailed survey drawings of the building, produced after carrying out a full structural survey of the property concerned;
- ii) A conservation statement, defining and detailing all aspects of significance and the measures proposed for their retention;
- iii) Detailed development proposals relating to both the historic building to be rescued and the associated enabling element of the proposal, together with an impact assessment of the overall development; and
- iv) A Development/Financial Appraisal detailing all costs sales income and grant aid related to the above as well as a marketing statement to provide conclusive evidence that there is the requirement for an element of enabling development and that the development can be implemented and brought to the market.

For an applicant, failure to include this information as an integral part of a submitted planning application could lead to significant delays and lessen the chances of any successful appeal against a refusal or deemed refusal of the application on the grounds of non determination in the specified period.

**4.2** Prior to submitting an application, applicants should be encouraged to discuss their proposals with East Ayrshire Council planning officers, Historic Scotland and all other appropriate amenity bodies, e.g. the Scottish Civic Trust. These bodies will be consulted by the Council on any application submitted and early notification to these bodies would be beneficial in indicating what may or may not be acceptable in terms of development from the outset.

**4.3** The final design of a proposal should have the minimum impact on the architectural and historic interest, character and setting of the historic environment, including any designation of a Historic Garden or Designed Landscape. Any new build development should be well designed, carefully or discreetly sited and not too bulky or large in scale. Its design should also reflect and compliment the style and

design of the original building located on the site and comply with the Council's design guidance.

- 4.4** Applicants should, as an integral part of their submission, attach to an application the results of a full structural survey with measured survey drawings, and a conservation statement, which sets out the significance of the historic building and defines the aspects of it which should be retained. This work is vital as a baseline for preserving the resource and should be carried out by professionals experienced in the restoration of historic buildings.

## **5 FINANCIAL APPRAISAL**

- 5.1** The financial appraisal section of an application assesses the costs relating to preservation of the historic resource, and the profit realised from the related enabling development. It should demonstrate that the enabling development is the minimum required to restore the building. A model of a basic Development Appraisal/Residual Valuation is attached as an Appendix to this report. This is intended as a guide for applicants as the basis for demonstrating the need for enabling development and is not intended to be prescriptive, each case being analysed on its own specific circumstances.

- 5.2** The appraisal should include details of the profit that is expected to be realised from either the sale of the historic asset or a capitalised rental value if the property is to be let. In the latter case a legally binding contract between lessee and owner would be required to ensure that the property is adequately maintained; This approach pre-supposes that there is in effect a burden on the developer in restoring the building and unlocking its development potential that can only be met from an enabling development.

- 5.3** All assumptions made in the appraisal (i.e. professional fees, developers profit, interest rate etc) should be explained fully and be in accordance with valuation practice as set out in the RICS Appraisal and Valuation Standards ('Red Book').

- 5.4** It is recognised that the Council itself may not possess the necessary expertise to fully assess the financial appraisal that will be required. The Council may therefore, in certain cases, require to appoint an independent professional to validate and assess any financial information submitted; and the applicant will be required to pay for this assessment.

## **6 DECISION MAKING**

- 6.1** Any recommendation by the Department of Development Services on an enabling development application will be made following an assessment of the benefits of conserving the historic building, and the impacts of the enabling development on the building itself and its

environmental/historic setting. The benefits should clearly outweigh any negative impacts. It is up to the applicant to prove the need for enabling development, and it is reasonable that an application could be refused due to the submission of incorrect or insufficient information.

- 6.2** For clarity, 'the minimum necessary to unlock the development potential', as described in 3.1 above, is defined as the improvements required to allow a viable use to operate within the property.
- 6.3** Any decision to grant planning permission should state the number of units acceptable. Granting outline planning permission for an application which does not put a figure on the number of units to be built, or which does not demonstrate their design and layout would not be acceptable.
- 6.4** An application for enabling development will require to be the subject of a Section 75 Agreement between the Council and the applicant. This will include provisions to ensure that the enabling element of the development will not be carried out without the implementation of work to the historic building.
- 6.5** Applicants will also be required to demonstrate that adequate provision is made as part of their development proposals for future maintenance of the historic resource, and that no additional enabling development will be required at a later date to enable further repair or maintenance works.
- 6.6** Any Planning Agreement relating to enabling development will transfer to any new owner should ownership change.

## **7 DEVELOPMENT BRIEFS**

- 7.1** Where an asset has been identified as being at risk, and where it is understood that enabling development may be the only solution, it is proposed that a proactive approach is taken, with development briefs being produced by the Council. If an applicant then comes forward with a proposal for enabling development, then development would require to be in line with the brief.
- 7.2** The production of a development brief would include:
  - An assessment of the character and significance of the historic resource;
  - An indication of the constraints involved in the development of the site (e.g. designations such as a Wildlife Site, Site of Special Scientific Interest, Tree Preservation Orders, etc);
  - An outline of any opportunities or the uses that may be acceptable on the site; and

- The aims and concerns of the Council relating to the development of the site.

**7.3** An applicant may require to await the publication of a development brief and therefore early consultation with the Council is recommended.

## **8 FINANCIAL IMPLICATIONS**

**8.1** The Council may incur some expense should independent valuation professionals be appointed to assess enabling development applications. It is expected that costs will normally be accommodated within existing Departmental resources.

## **9 LEGAL IMPLICATIONS**

**9.1** Enabling development applications will involve a Planning Agreement (under Section 75 of the Town and Country Planning (Scotland) Act 1997) between the Council and an applicant (as detailed in paragraphs 4.13 - 4.15 above).

## **10 RECOMMENDATIONS**

**10.1** It is recommended that the Committee agrees:

- (a) to approve the approach to the consideration of enabling developments as detailed in this report;
- (b) to adopt the principle that the Department of Development Services produce development briefs for sites, as considered appropriate, in cases where enabling development may be required and
- (c) delegate to the Director of Development Services to determine when independent valuation is necessary and to authorise such independent valuation where necessary.

**Stephen Chorley**  
**Director of Development Services**  
**26 November 2003**

## **LIST OF BACKGROUND PAPERS**

- 1 NPPG18 Planning and the Historic Environment
- 2 East Ayrshire Local Plan (Adopted April 2003)
- 3 English Heritage Report

For further information on the content of the report, contact Alasdair  
Laurenson, Planning and Building Control Division, on 01563 576757

**Implementation Officer: Alan Neish**

## MODEL DEVELOPMENT APPRAISAL/RESIDUAL VALUATION

### HISTORIC ASSET DEVELOPMENT APPRAISAL

£

OPEN MARKET VALUE OF  
COMPLETED HISTORIC ASSET

£0

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£0

#### LESS TOTAL DEVELOPMENT COSTS

Acquisition cost		£0		(verified by DV as being OMV)
Construction Costs		£0		(for conversion of historic asset)
Contingencies	5%	£0	£0	
Professional Fees	0%	£0		
Local Authority Warrants		£0	£0	
Finance Costs	0.00%	£0		(usually approx. 2.5% if applicable)

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Sub-total

£0

Less any grant funding

£0

Add, developers profit 20%

£0

(calculated as 20% of OMV of completed building)

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TOTAL DEVELOPMENT COSTS  
(INCL. PROFIT)

£0

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RESIDUAL DEFICIT

£0

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#### ENABLING DEVELOPMENT

£

OPEN MARKET VALUE OF COMPLETED ENABLING DEVELOPMENT

PROFIT TO BE CONTRIBUTED TO CONVERSION OF  
HISTORIC ASSET TO MEET RESIDUAL DEFICIT

20%

£0