

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE – 21 OCTOBER 2003

APPEAL DECISIONS 01 AUGUST 2002 – 31 MARCH 2003

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 the outcome of five appeals in respect of planning applications handled by East Ayrshire Council. Three of the appeals were in respect of refusal of planning consent. A fourth concerned an appeal against conditions attached to the planning consent for Loudoun Castle Theme Park. In all cases where there had been a Committee decision this was in accordance with the officer recommendation.

- 2.2 Two of the appeals against refusal were dismissed and one sustained. The appeal at Loudoun Castle was successful only in minor part.

3. FINANCIAL AND LEGAL MATTERS

- 3.1 No claims for expenses were submitted in respect of the five appeals.

4. RECOMMENDATION

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

Stephen Chorley
Director of Development Services
30 September 2003 (DVM/SA)

BACKGROUND PAPERS

- 1. Planning Application Numbers: 01/0631/FL, 01/0586/FL, 01/0569/OL, 01/0844/FL and 99/0723/FL and associated papers.**

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	01/0631/FL	13 Blackwood Avenue, Kilmarnock	Change of Use of portion of open ground to private garden	Refuse	Refuse	Central LPC 09.11.01	Refused	01.08.02	No	No
<p>This application was refused because the loss of part of the existing area of public open space would be contrary to Council policy and would be detrimental to the setting, character and appearance of the wider residential development. It would also adversely affect the recreational and amenity value of the site. The Reporter placed weight on the fact that this was an area where children can play without fear of passing cars and that there would be a loss of amenity to local residents. The Reporter dismissed the appeal.</p>										
2	01/0586/FL	19 / 21 Cumbrae Drive Kilmarnock	Change of Use of footpath to private garden ground	Refuse	Refuse	Northern LPC 23.11.01	Approved with Condition	02.09.02	No	No
<p>This application was refused because the proposal would be detrimental to residential amenity because of the loss of direct safe pedestrian access to the public open space and to wider community facilities. The Reporter found that the interests of the two applicants carried sufficient weight to prevail over the slight disbenefit to the community from closing the path. The Reporter also placed weight on the comments of the police that the footpath was a "crime generator", it not being lit or overlooked by housing. Another route using Eriskay Place and Islay Place was considered to be a viable and lit alternative. Whilst accepting that approval might encourage further similar applications, the Reporter indicated that each application should be considered on its merits and the Council should not be discouraged from a consistent policy approach towards footpath networks in this estate and elsewhere in accordance with Government advice.</p>										
3	01/0844/FL	Telephone Exchange, 2 Langlands Brae, Kilmarnock	Installation of 15 antenna & ancillary development	Refuse	Refuse	Central LPC 14.06.02	Refuse	05.03.03	No	No
<p>This application was refused because of the cumulative impact these further antennae would have on the building and on the Outstanding Conservation Area. This cumulative detrimental effect would be contrary to Council Policy and contrary to NPPG19 and PAN62 that address Radio Telecommunications development. The Reporter concluded that the proposals would have a detrimental effect on the telephone exchange building itself and on the surrounding area, particularly the setting of listed buildings in the northern end of the Outstanding Conservation Area and dismissed the appeal.</p>										

	App No.	Site Address	Proposed Development	Recommendation	Decision	Venue & Decision Date	Appeal Decision	Appeal Decision Date	Expenses Claimed	Expenses Awarded
4	99/0723/FL	Loudoun Castle Theme Park, by Galston	Appeal against all 11 conditions attached to consent for Change of Use from Various Uses to Amusement Park including Erection of Play Fort	Planning applic. no 99/0723/FL was recommended for approval.	Approve subject to 11 conditions	Dev. Services Committee 18.12.01	No alteration to 10 out of 11 of the conditions	11.12.02	No	No

11 conditions were attached to the original grant of planning consent to secure an environmental mitigation plan, a signing/direction strategy, limit to overall numbers of adult seats on rides, ride height limits within given areas, drainage details including SUDS and other measures limiting the impact of the development on the designed landscape of Loudoun Castle. The appeal challenged the terms of these conditions in great detail claiming that they were unreasonable, arbitrary and incompetent. The Reporter concluded that the conditions, on the contrary, required no alteration other than for Condition 4 which was revised to remove Planning control over the colour or illumination of "single season" rides. In order to benefit from the dispensation for single season rides, the park operator is to notify the Council in writing of their location and description within 2 weeks of their appearance on site.