

## **EAST AYRSHIRE COUNCIL**

**DEVELOPMENT SERVICES COMMITTEE: 10 FEBRUARY 2004**

**03/0628/FL: ERECTION OF 12 RESIDENTIAL DWELLINGS  
AT FENWICK ROAD, KILMAURS  
BY HOPE HOMES SCOTLAND**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Full permission is sought for the erection of 12 dwellinghouses in a mixture of styles. On the upper level there are proposed seven, single storey and three pairs of semi-detached houses ranging from four 1¾-storeys to two 2-storey villas.

1.2 The housing on the lower level is detailed as a linked terrace of five houses with pend accesses for off-street parking. Finishing materials are detailed as being a mix of wet dash render stone detailing, sash and case windows and slate roofs.

1.3 It should be noted that this application presents an amendment of an original application for 13 houses presented in a more conventional manner. That proposal was amended over a series of months through meetings and correspondence with Council officers to that currently before the Committee.

#### **2. RECOMMENDATION**

**2.1 It is recommended that full planning permission be granted subject to the conditions on the attached sheet and subject to notification to the Scottish Ministers in terms of the Notification of Applications Direction 1997. It is further recommended that the issuing of the planning Decision Notice be withheld until Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matter referred to in paragraphs 5.6 and 7.2 of the report.**

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report the application is considered to be in accordance with the terms of the Development Plan. Therefore given the terms

of the Town and Country Planning (Scotland) Act 1997 it should be approved unless material considerations indicate otherwise.

3.2 In terms of those considerations the comments from the Architectural Heritage Society, Historic Scotland and the Scottish Civic Trust are supportive of the application.

3.3 The terms of the objections are noted but are considered to be of insufficient weight to justify the refusal of the application.

**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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**Report by Head of Planning and Building Control**

### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full application which is to be considered by the Local Planning Committee as it involves more than 10 houses, is of local significance and is subject to objections.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an area of land between Fenwick Road and Millhill Avenue, Kilmaurs in the Kilmaurs Conservation Area. The site has a marked difference in level. Its upper section on Millhill Avenue being some 5 metres higher than its lower part fronting Fenwick Road. Currently the site, whilst housing small pockets of maintained land (a wide verge on Millhill Avenue and a small area of land on its south east corner) is in an overgrown ill-managed condition. A section of Fenwick Road is included in the site for the purposes of additional land take on the lower side.

2.2 **Proposed Development:** Full permission is sought for the erection of 12 dwellinghouses in a mixture of styles. On the upper level there are proposed seven, single storey and three pairs of semi-detached houses ranging from four 1¾-storeys to two 2-storey villas.

2.3 The housing on the lower level is detailed as a linked terrace of five houses with pend accesses for off-street parking. Finishing materials are detailed as being a mix of wet dash render stone detailing, sash and case windows and slate roofs.

2.4 It should be noted that this application presents an amendment of an original application for 13 houses presented in a more conventional manner. That proposal was amended over a series of months through meetings and correspondence with Council officers to that currently before the Committee.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has confirmed that they have no objections to the application. There has been significant correspondence between the applicants and the Roads Division including discussions in respect of the on-street traffic management and parking proposals. Consequently this Division has confirmed that the proposal is appropriate and meets their requirements.

***Noted.***

3.2 Scottish Environment Protection Agency has advised that they have no objection to the proposal but has confirmed that the additional load from the development may cause the premature operation of consented storm overflows. They have requested that a written assurance from Scottish Water be sought in this regard, and recommended that a SUDS system be utilised for the purposes of treating surface water.

***Noted.***

3.3 Scottish Water has raised no objection to the proposal confirming their standard requirements. They have echoed the concerns of SEPA and have requested that surface water from the development be treated by means of a SUDS system.

***Noted.***

3.4 The Coal Authority have not advised of any ground stability issues that they would anticipate impacting on the proposal.

***Noted.***

3.5 The Architectural Heritage Society for Scotland has advised that they find the principle of the proposal acceptable. They acknowledge the attempts to give a sympathetic traditional design and are now satisfied subject to the securing of the design of the rooflights utilised on certain house types.

***Noted. This aspect can be secured by means of condition.***

3.6 Historic Scotland note the improved alterations to the scheme and confirm they approve of the proposal in terms of its design and scale. They do however qualify those comments by confirming that the loss of green space in a Conservation Area is regrettable.

***Noted. The issue of the loss of the green space is noted, however it is considered that the general quality of the site is currently poor***

***with only small parts actually managed in a manner that offers any positive contribution to the Conservation Area.***

***It is considered that this general endorsement of the proposal can be taken as an acknowledgement that the proposal is of sufficient quality for a site within a Conservation Area.***

3.7 The Scottish Civic Trust have confirmed that they are satisfied with the proposal again subject to clarification of certain details, including finishing materials.

***Noted. These matters can be addressed by means of conditions if the Committee is of a mind to approve the application.***

3.8 Kilmaurs Community Council have objected to the proposal on a variety of grounds included within those detailed in Section 4 of this report.

***Noted.***

3.9 West of Scotland Archaeology Service has advised that following qualified investigation work on the site there is no evidence of important archaeological deposits or features.

***Noted.***

3.10 East Ayrshire Council Education Services have advised that they have no objection to make in respect of the application and their ability to meet their statutory responsibilities in providing school places for any children who may reside in the new houses.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 In addition to the objection from Kilmaurs Community Council a further 15 objections have been received in respect of this current proposal. The grounds of objection vary in nature as follows:-

- Two storey housing is out of keeping with the area.

***The site having two distinct frontages is exposed to differing characters of housing, from typical terraced villas to a mix of traditional historic properties ranging in height from single storey to larger scale two storey buildings. The mix of house types proposed has been adopted to attempt to form a transition between these***

**types of housing and to utilise the constraints of the site in an appropriate manner. Certain design detailing has been brought forward to support the established character of the Conservation Area and reinforce that character in an area which currently does not contribute in any positive manner.**

- The proposal will impact on privacy and amenity of existing residents.

**Given the constraints of the site this aspect has been carefully addressed through the internal arrangement of the houses proposed. At its most constrained area the distance between house (proposed and existing) is detailed as approximately 13 metres (Plot 3) this is across a public road (amenity and privacy aspects are considered to be less sensitive in the public elevations). Currently this distance is considered acceptable. To the rear of plot 1 there is no privacy aspect due to the single storey design of the house. The remaining houses on Millhill Avenue have a more acceptable separation of between 16 and 17 metres to the proposed houses.**

- The site is being overdeveloped by simply cramming houses on to the site.

**As stated previously the site is constrained however in urban areas there is an opportunity to relax certain desirable criteria if the development merits it. In this case given the positive comments of the consultees about the development, it is considered appropriate to allow a relaxation. In terms of strict Council policy Plots 2-5 fail to offer the required private garden allocation. The remaining plots offer more than the desired area.**

- The proposal will result in both parking difficulties and increased road hazards to additional vehicles and pedestrian movement.

**The Council's Roads Division has confirmed that they are satisfied with the proposal and its supplementary traffic calming measures. It should be borne in mind that the traffic calming whilst being brought forward with the proposal would have been required regardless.**

- The proposal will result in sewerage management difficulties.

**Noted. SEPA and Scottish Water have commented on this aspect and the proposal is deemed acceptable.**

- The lack of front gardens on the houses is out of keeping with the area.

**This aspect is noted and is partly as a consequence of the constraints of the site but the character of the area is not consistent,**

***there being properties elsewhere in the area having no front gardens. It should be noted that the consultation response from bodies charged with the assessment of the application in design terms have not criticised this particular aspect, (Architectural Heritage Society, Historic Scotland and Scottish Civic Trust).***

- The proposal will result in the loss of open space.

***It does not appear that the open space areas are utilised to any great extent. They are not safeguarded in the Development Plan and the marketing of the site did not specify a constraint to retain them.***

- The level difficulty will result in a lack of suitable amenity/privacy for the residents.

***This aspect has been addressed by means of design in order to minimise overlooking and improve amenity aspects. The constraints of the site have made it difficult to address these issues whilst endeavouring to minimise the impact on existing residents. However only two of the proposed houses on the upper level have conventional windows to habitable rooms at first floor level and this assists in reducing perceived overlooking problems.***

- No levels have been provided to demonstrate the manner of addressing the difference of levels on the site.

***Information on this aspect across the site in a north/ south orientation has been provided and it clearly details the relationship between the identifiable two levels of the site. It would be the Divisions intention to secure the matter of finished levels across the entire site by means of conditions if the application is approved.***

- The loss of the existing shrubs and hedges would be detrimental to the amenity of the area.

***The quality of the existing growth on site has been assessed and found to be in itself of no real merit indeed the Council only manages the most visible level areas of the site.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that applications be 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 and the Adopted East Ayrshire Local Plan 2003. Given the essentially local issues raised, it is considered appropriate to assess the application against the terms of the local plan.

5.2 In terms of this application the relevant policies are as follows:-

Policy RES 4 states that the Council will positively encourage the sympathetic residential development of gap sites not specifically identified for particular development purposes. The site is not identified for any specific purpose and the proposal requires to be assessed against the following criteria:-

- Impact on the surrounding natural and built environment and adjacent uses.
- Transportation and infrastructure implications
- Compatibility with surrounding densities and house types
- Compliance with the Council's Development Promotion and design guidance.

***As stated above the application has been assessed and found to be acceptable in terms of all the criteria listed.***

***In respect of criteria 1 the consultees are generally supportive of the proposal and have confirmed that the development is acceptable in the context of the conservation area. The development has been designed to ensure the impacts on the adjacent uses are minimised whilst presenting a proposal which does add to the general amenity of the area. The condition of the majority of the site is such that it would be misleading to adopt the position that it contributes positively to the conservation area.***

***The transportation and servicing issues have been assessed and found to be acceptable subject to certain conditional requirements.***

***In terms of the compatibility with the adjacent densities and house types it is acknowledged that the development differs in density and character from the adjacent houses. However, the proposed units neither copy nor pastiche the building to west or east, rather they accommodate design elements from these adjoining properties to form a development which acts as a transition between the different styles in the vicinity. The proposal also offers some improvement to a currently poorly maintained area. Given the above the increase in density is considered acceptable. It maintains an acceptable amenity for the adjacent residents and the amenity constraints of the site are***

***predominantly internal to the site and will impact on prospective residents only.***

***In respect of the Councils Development Promotion guidance the Division is satisfied that the proposal given the constraints of the site is supportable.***

5.3 Policy RES 19 confirms the Councils intent to require developers to provide areas of active recreational and amenity space within sites in accordance with the relevant schedule.

***There is discretion within this policy for the Council to forego the active open space requirement in developments of less than 30 units and it is considered prudent to allow relaxation in this regard particularly given the topography of the site. it would normally be the case that for developments of this size such a relaxation would be permitted. There is no indication in the policy of the proportion of amenity space that would be required but again it is considered that that requirement can be set aside given the benefits of the overall development.***

5.4 Policy ENV 4 of the local plan confirms the Council's position regarding proposals within a Conservation Area in respect of ensuring that the development is sympathetic to the area in terms of layout, size, scale, etc.

***The application has been assessed and is considered to be acceptable, the existing character of the area is varied with in itself no consistent form in terms of building height, densities etc. The proposal in the view of the Division represents an appropriate solution given the varied built form in the local area.***

5.5 Policy ENV 6 confirms that the Council will actively encourage the improvement and enhancement of the built environment.

***In this instance it is considered that the proposal does offer a general improvement. Notwithstanding the loss of an area of amenity space the back of the site can only be described as an unattractive pocket on the fringes of the established Conservation Area.***

5.6 Policy TLR 5 of the Adopted Local Plan confirms that developers will be requested to enter into an agreement with the Council to make contributions to the provision of appropriate leisure and recreational facilities in the local area.

***The applicants have been requested through their agents to enter into such an agreement and have confirmed that they will be***

***prepared to make a contribution consistent with the terms of this policy.***

In summary of the above policies it is considered that the proposal is in accordance with the terms of the Development Plan.

## **6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS**

6.1 The other material considerations relevant to the consideration of this application are the consultation responses the letters of objection and the relevant national guidance for applications in conservation areas.

6.2 The consultation responses are detailed in Section 3 of the report and are considered to be supportive of the application.

6.3 The letters of objection are also addressed in the report and on balance it is considered that whilst objections raise valid issues these are of insufficient weight to justify the refusal of the application.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 The Council owns the site and as a consequence there is a direct financial implication for the Council in the determination of this application. In this regard and bearing in mind the number of third party objections to the development should the Committee agreed to approve the application it will require to be notified to the Scottish Executive under the terms of the Town and Country Notification of Applications Direction 1997.

7.2 The applicants agreement to make a contribution to the Sports, Leisure and Recreation Fund in terms of Policy TLR 5 will require a legal agreement to be entered into between the Council and the applicant under the terms of Section 75 of the Town and Country Planning (Scotland) Act 1997.

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of the report the application is considered to be in accordance with the terms of the Development Plan. Therefore given the terms of the Town and Country Planning (Scotland) Act 1997 it should be approved unless material considerations indicate otherwise.

8.2 In terms of those considerations the comments from the Architectural Heritage Society, Historic Scotland and the Scottish Civic Trust are supportive of the application.

8.3 The terms of the objections are noted but are considered to be of insufficient weight to justify the refusal of the application.

## **9. RECOMMENDATION**

**9.1 It is recommended that full planning permission be granted subject to the conditions on the attached sheet and subject to notification to the Scottish Ministers in terms of the Notification of Applications Direction 1997. It is further recommended that the issuing of the planning Decision Notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicants in respect of the matter referred to in paragraphs 5.6 and 7.2 of the report.**

**Alan Neish  
Head of Planning and Building Control**

20 January 2004  
(IW/MMM)

### **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notes/Certificates.
3. Consultations.
4. Representations.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

***Implementation Officer: Dave Morris***

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0628/FL

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Site of Proposal: Fenwick Road  
KILMAURS

Nature of Proposal: Proposed Erection of 12 No. Residential  
Dwellings

Name & Address of Applicant: Hope Homes Scotland  
Watson Terrace  
DRONGAN  
Ayr KA6 7AB

Name & Address of Agent:

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DPOs Reference: IW/MMM

The above FULL application should be granted subject to the following conditions:-

1. The proposed development shall be carried out in accordance with the application form received on 19 June 2003 and the amended plans received by the Planning Authority on 05 and 19 November 2003.

REASON To ensure that development is carried out in accordance with the approved details.

2. Notwithstanding the details of the plans hereby approved, further details of the existing and proposed ground levels of the site and proposed floor levels of the proposed houses shall be submitted to for the approval of the Planning Division prior to the commencement of development and thereafter implemented in accordance with the details as approved.

REASON In the interests of visual amenity in the Conservation Area.

3. Details submitted in pursuance of condition 2 above shall show the means of retention and drainage management of the east west running wall through the

site as per drawing No. 00/19-55 and the treatment of the east most boundary of the site. Said details shall be provided at a 1:50 scale.

REASON In the interests of visual and residential amenity in the Conservation Area.

4. Notwithstanding the submitted plans details of the design and construction of all boundary treatment and fences/gates to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site. These features shall thereafter be constructed as approved.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity in the Conservation Area.

5. Details submitted in connection with condition 4 above shall provide for a wall along the boundaries coloured blue on the approved site layout plan and the reuse of the natural stone from the lower east side of the application site as a screen wall, for the north elevation of the electricity substation within the application site.

REASON In the interests of visual amenity in the Conservation Area.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, (or any order or enactment replacing this) no extensions or garages (unless forming part of the approved layout plan shall be erected on the site unless a further specific planning application is submitted to and approved by the Planning Authority.

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the Conservation Area.

7. Notwithstanding the plans hereby approved details and samples of all finishing materials including rooflights to be used shall be submitted to and approved by the Planning Authority before any development commences on the site.

REASON In the interests of visual amenity in the Conservation Area.

8. Details submitted in pursuance of Condition 7 above shall provide for the use of natural slate roof finishes for the proposed houses, details of which shall be submitted to and approved by the Planning Authority prior to being used.

REASON In the interests of visual amenity in the Conservation Area.

9. Full details of the traffic management and parking details as per the approved site layout plan shall be submitted to for approval by the Planning Authority and thereafter implemented as approved prior to the occupation of the dwellinghouses

REASON In the interests of road safety.

10. Prior to the commencement of works on site, details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved in writing by the Planning Authority.

REASON To ensure adequate drainage.

11. External construction works shall take place only between 09:00 am and 06:00 pm, Monday to Friday and between 09:00 am and 05:00 pm on Saturday. No such works shall be undertaken at any time on Sunday.

REASON In the interests of the residential amenity of the surrounding area.

12. Prior to the occupation of any residential units, the SUDS arrangement approved under the terms of condition 10 shall be installed and fully operational.

REASON To ensure for the provision of adequate surface water drainage within the site.

NOTES:

1. Prior to the commencement of any works on site for the development hereby approved, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
2. The developer shall make early contact with Scottish Water and the Scottish Environment Protection Agency to confirm their request to utilise a Sustainable Urban Drainage System (SUDS) with regard to surface water. These Authorities require this development to be drained in accordance with the recommendations contained in the CIRIA manual on SUDS.
3. The Council does not currently have a general agreement with Scottish Water in relation to the maintenance of public SUDS. Proposals for site specific agreements which may require to involve the developer or other third parties will be considered within the overall framework recommended in the design manual for SUDS published by CIRIA.

4. Early contact is strongly suggested with Scottish Water on 0845 601 8855 and Transco on 0141 418 40923 to discuss permissions for connection/drainage to equipment.
5. Early contact with the Council's Roads and Transportation Division is recommended to discuss access and traffic calming issues.

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