

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 27 APRIL 2001**

**01/0091/FL: CHANGE OF HOUSE TYPES  
PLOTS 36/37, 75/76 AND 80/81, AREA E TOPONTHANK, KILMARNOCK  
BY TAY HOMES (SCOTLAND) LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 It is proposed to change six semi detached villas to a different arrangement of 4 semi detached house types and two detached villas. The new houses are the same approximate size as the originals.

#### **2. RECOMMENDATION**

**2.1 It is recommended that this application be approved.**

#### **3. SUMMARY OF ANALYSIS**

3.1 As indicated in paragraph 5.2 of the report the proposal is not in accordance with the provision of the approved development plan. However, Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and NPPG1 "The Planning System" confirm that where an application does not comply with the development plan it should be determined accordingly unless material considerations indicate otherwise. As indicated in Section 6.0 of the report, it is considered that there are other material considerations relevant to this application of sufficient weight to merit the approval of the application.

**Alan Neish  
Head of Planning & 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.**

## EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 23 MARCH 2001

01/0091/FL: CHANGE OF HOUSE TYPES  
PLOTS 36/37, 75/76 AND 80/81, AREA E TOPONTHANK, KILMARNOCK  
BY TAY HOMES (SCOTLAND) LTD

### Report by Head of Planning and Building Control

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application which is to be considered by the Local Planning Committee under the scheme of delegation because it is a larger application which accords with the Finalised East Ayrshire Local Plan.

#### 2. APPLICATION DETAILS

2.1 The application site lies within the boundary of a housing development of 99 units which is currently under construction under East Ayrshire Council Planning Ref: 00/0250/RM at Toponthank, Kilmarnock.

2.2 **Proposed Development:** It is proposed to change six semi detached villas to a different arrangement of 4 semi detached house types and two detached villas. The new houses are the same approximate size as the originals.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 The Northwest Community Council has not responded at the time of writing this report.

***Noted.***

3.2 East Ayrshire Council Roads Division have confirmed that they have no objection to the proposal.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 No representations have been received in respect of this application.

*Noted.*

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

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning 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 Ayrshire Joint Structure Plan and the Adopted Kilmarnock Local Plan (1986). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the proposal would fall to be considered against Policy 4.1.6 of that plan which requires that “housing development outwith prescribed commitments (at that time) as specified in policies 4.1.1 to 4.1.5 shall not be allowed, except for housing in the countryside as defined by specific policies”.

The application site is outwith the settlement boundary of Kilmarnock as defined by the then Adopted Local Plan and does not meet the criteria required by the specific policies.

As indicated above, the Adopted Local Plan is of considerable age and greater weight must be applied to other material considerations.

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

6.1 The other principal material considerations relevant to the determination of this application are the East Ayrshire Council Local Plan Finalised Version (1999) and the planning history of the site.

6.2 Current Development Plan Status

As stated above the Adopted Plan is considerably out of date and therefore it is considered appropriate that greatest weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Council Local Plan (Finalised Version), (EALP), should be considered a prime material consideration.

***Noted. The details of the application involve a relatively minor alteration to a housing development currently under construction in an area identified for that purpose in the EALP under housing policies. Accordingly, the proposal is in accordance with the plan. In addition, the proposal continues to meet the relevant open space requirements of that plan.***

### 6.3 Planning History

As stated above this application involves a change of house types within a larger development which is itself part of an extensive new housing area in the north of Kilmarnock constructed over the last few years. That larger release was similarly contrary to the approved Kilmarnock Local Plan and each subsequent application has been advertised accordingly. The initial release of this housing site was sanctioned through the Finalised Kilmarnock and Loudoun District Plan.

## 7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

## 8. CONCLUSION

8.1 As indicated above in paragraph 5.2 the proposal is not in accordance with the provisions of the approved development plan. However, Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and NPPG1 "The Planning System" confirm that where an application does not comply with the development plan it should be determined accordingly unless material considerations indicate otherwise. As indicated in Section 6.0 it is considered that there are other material considerations relevant to this application of sufficient weight to merit the approval of the application.

## 9. RECOMMENDATION

9.1 **It is recommended that this application be approved.**

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

12 March 2001 (IW/MS)

FV/DVM

### LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Consultations.
3. Adopted Kilmarnock Local Plan.
4. Kilmarnock and Loudoun Finalised District Plan.

5. East Ayrshire Council Local Plan.
6. Adopted Ayrshire Joint Structure Plan.
7. NPPG1: The Planning System.

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

***Implementation Officer: Dave Morris***

i:Northern/010091

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 01/0091/FL

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Location	Plots 36/37, 75/76 & 80/81 Area E Toponthank KILMARNOCK
Nature of Proposal	Proposed Change of House Type
Name & Address of Applicant	Tay Homes (Scotland) Ltd Sovereign House 10/11 Royal Crescent GLASGOW G3 7SL

Name & Address of Agent

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DPO's Ref: (IAN WALKER)  
PPO's Ref: ( )

The above FULL application should be granted.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**

**AGENDA**