

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 02 AUGUST 2002**

**01/0796/FL: PROPOSED ERECTION OF 18 DWELLINGHOUSES WITH  
ASSOCIATED ROADS AND PARKING  
AT KIRKLAND PARK, KIRKLAND ROAD, DARVEL  
BY CRUDEN ESTATES LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 It is proposed to erect 18 houses and associated road and parking accessed from Kirkland Road. The scheme proposes to provide 10 two bedroom semi-detached houses, 4 three bedroom semi-detached houses and 4 three bedroom detached houses. All of the 18 houses are serviced off the new access road. The proposal aims to maintain the majority of the former railway embankment with a small section to the south of the embankment being removed to accommodate the garden ground of plot No1. It is proposed that a retaining wall of 30 metres long by 2.5 metres high be constructed to retain the remaining railway embankment at this location. In addition to this, the former railway bridge parapet will be reduced to 900mm in height for a distance of 7 metres from the proposed access to allow sightlines required for the road access to be achieved. The former railway embankment will be re-graded to a safe angle of repose to accommodate the reduction in bridge parapet height. The proposal provides the required six visitor parking spaces and appropriate traffic calming measures at the access to the development .

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

#### **3. CONCLUSIONS**

3.1 As is indicated section 5 of the report, the Development Plan is out of date and given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the material considerations. The material considerations in this regard, are of prime importance owing to the age of the Development Plan. In this instance the proposal complies with the East Ayrshire Local Plan and it is considered that the

objections are either not of sufficient weight to merit refusal of the application or can be addressed by means of planning conditions.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as a significant departure from the East Ayrshire Local Plan, Finalised Version with Modifications unless the refusal is with respect to the principle of the use of the site for residential purposes.

**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 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 East Ayrshire Local Plan and has been the subject of objections.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The proposed housing site of 1.34 hectares is located to the eastern end of Darvel within the grounds of the Kirkland Park House, a Grade B Listed Building. The site, including part of the former railway embankment (85 metre long), is a grassed and naturally landscaped open area. It is located to the north of Kirkland Park House and bounded to the west by Kirkland Road. The eastern boundary of the site is the Glen Water, which is heavily landscaped with bushes and undergrowth.

2.2 **Proposed Development:** It is proposed to erect 18 houses and associated road and parking accessed from Kirkland Road. The scheme proposes to provide 10 two bedroom semi-detached houses, 4 three bedroom semi-detached houses and 4 three bedroom detached houses. All of the 18 houses are serviced off the new access road. The proposal aims to maintain the majority of the former railway embankment with a small section to the south of the embankment being removed to accommodate the garden ground of plot No1. It is proposed that a retaining wall of 30 metres long by 2.5 metres high be constructed to retain the remaining railway embankment at this location. In addition to this, the former railway bridge parapet will be reduced to 900mm in height for a distance of 7 metres from the proposed access to allow sightlines required for the road access to be achieved. The former railway embankment will be re-graded to a safe angle of repose to accommodate the reduction in bridge parapet height. The proposal provides the required six visitor parking

spaces and appropriate traffic calming measures at the access to the development .

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council Roads and Transportation Division has confirmed that it has no objection to the road layout of the proposed development. With regard to flooding it has indicated that the flood risk to the site is considered to be insignificant. It has expressed concern that the proposed development may affect the stability of the river banking and that this should be investigated and certified by a structural engineer prior to the commencement of the development.

***A condition can be attached to any grant of planning consent requiring that the proposed works are certificated by a structural engineer thus ensuring that the proposed works are not detrimental to the integrity of the river banking.***

3.2 The Scottish Environment Protection Agency has indicated that it has no objection provided the surface water drainage from the site is dealt with in accordance with the CIRIA guide for Sustainable Urban Drainage Systems. It has indicated that it holds no record of flooding in this area however indicate that the centre for ecology and hydrology indicative “100 year flood plain” would appear to indicate that part of the site closest to the Glen Water may be at risk of flooding from the “100 year” (1% risk of occurrence in any one year) flood event. In these circumstances SEPA require either that a flood risk assessment be carried out or that evidence be provided that the site is not subject to flooding.

***As indicated in section 3.1 above, the East Ayrshire Council Roads Division has indicated that the “flood risk to this site is likely to be insignificant” therefore it is considered that SEPA’s concerns have been addressed by this consultation response. A condition and relevant notes can be attached to any grant of planning consent requiring the disposal of the surface water through a Sustainable Urban Drainage System. The submitted plans confirm that the applicants have given consideration to this requirement.***

3.3 Scottish Water has indicated that the existing Combined Sewer Overflow (CSO) has been classified as unsatisfactory and preliminary investigation suggests that upgrading of the sewerage system will be outwith reasonable cost. Increase in surcharging caused by the proposed development will also be unacceptable therefore Scottish Water object to the proposed development.

***A suspensive condition can be added to any grant of planning consent requiring that no works shall start on site until such time as***

***the applicant can provide written confirmation from Scottish Water that it is satisfied with the proposed drainage arrangements.***

3.4 Darvel and District Community Council has not responded at the time of writing this report.

***Noted.***

3.5 Historic Scotland have indicated that the setting of the listed building would be maintained by the provision of a belt of trees between the housing development and the Kirkland Park House.

***A condition can be added to any grant of planning consent regarding the provision of a belt of trees within the development site to maintain the integrity of the listed building.***

3.6 East Ayrshire Council's Community Services has indicated that the lime tree to the south of the site should be protected during the construction process. It also indicate that the trees and bushes on the banking of the river should be retained to prevent soil erosion from the river.

***A condition can be added to any grant of planning consent regarding the retention of the trees and bushes to the river banking and the protection of the large lime tree to the south of the development site.***

3.7 Coal Authority has no objection to the application.

***Noted.***

#### **4. REPRESENTATIONS**

Five letters of objections have been received in relation to this application in addition to the objection by Scottish Water.

4.1 The railway embankment provides privacy to the housing at Glen Crescent and its removal would reduce the privacy, which it provides. What type of excavation work is required to move the hundred tons of soil on the embankment?

***The proposed development will result in a small area of the railway banking being disturbed however the majority of it will remain intact with additional planting proposed for the area. The privacy of the housing to Glen Crescent will not be reduced by the removal of the small section of the banking. Any excavation works required for the development would require to be carried out in accordance with***

***Health and Safety requirements as regulated by the Health and Safety Executive.***

4.2 The road into the development is opposite the children's play park and this will bring extra traffic to an already busy road

***The Roads and Transportation Division has indicated that it is satisfied with the proposals (para 3.1 above).***

4.3 The proposed development will disturb the old railway banking which is a haven for wildlife. Field Fares have nested in this embankment this year, this bird is a protected species and cannot be disturbed. Development should take place in the space provided and not by removing a natural wildlife habitat.

***A condition can be attached to any grant of planning consent requiring that the proposed works to the former railway embankment to be carried out outwith the bird nesting season.***

## **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 Approved Ayrshire Joint Structure Plan and the Ayr County Development Plan (1953).

5.2 However, the Adopted Ayr County Development Plan is now considerably out of date. Given the age of this plan, its relevance to this application is negligible and, as a consequence, significant weight must be attached to a more recent expressions of policy.

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

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications), Consultations and Representations.

### East Ayrshrie Local Plan Finalised Version with Modifications)

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

6.3 Policy RES 1 indicates that the Council will encourage and support the residential development of those development opportunities sites identified for housing purposes on the individual local plan maps.

***The application site is identified on the Darvel Local Plan Map as a housing site with a notional capacity of 15 houses. The proposed development meets Policy RES 1 of the EALP.***

6.4 Policy TLR 8 states that there will be an assumption against development on those safeguarded areas of public and private recreational or amenity open space as identified on the local Plan maps and on other undeveloped land within settlement boundaries which contributes to the setting, character and appearance of the settlement concerned.

***The development site encompasses the identified residential site 098H as well as part of the safeguarded open space to the east and north-east of Kirkland Park House. The proposed development maintains the safeguarded open space area by ensuring that the houses are located outwith the safeguarded area.***

6.5 Policy TLR 5 requires the Council to request all potential developers of residential sites to contribute towards the provision of appropriate leisure and recreational facilities within the area to which the development relates.

***The developer has indicated that they are agreeable to the principle of addressing the Council's requirements in this manner.***

#### Planning History

6.6 A planning application 97/0303/FL was refused by the Local Planning Committee on 24 March 1998 for the erection of 18 two and three bedroom dwelling houses and associated roadway and enhancement of right of way and partial removal of rail embankment to area at rear of Kirkland Park House Kirkland Road development. The application was refused on the grounds that the removal of the embankment would constitute the loss of a valuable physical feature in the area to the detriment of visual and residential amenity. The current proposal maintains the majority of the embankment thus ensuring that the visual and residential amenity of the area is not affected.

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

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

## **8. CONCLUSIONS**

8.1 As is indicated section 5 of the report, the Development Plan is out of date and given the terms of Sections 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the material considerations. The material considerations in this regard, are of prime importance owing to the age of the Development Plan. In this instance the proposal complies with the East Ayrshire Local Plan and it is considered that the objections are either not of sufficient weight to merit refusal of the application or can be addressed by means of planning conditions.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee as a significant departure from the East Ayrshire Local Plan, Finalised Version with Modifications unless the refusal is with respect to the principle of the use of the site for residential purposes.

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

24 July 2002  
(CSI/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form/Plans.
2. Statutory Notice/Certificates.
3. Letters of Representation.
4. Ayr County Development Plan.
5. East Ayrshire Council Local Plan (Finalised Version with Modifications).
6. Approved Strathclyde Structure Plan.
7. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Craig Iles on 01563 576770.

***Implementation Officer: Dave Morris***

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## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0796/FL

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Site of Proposal:	Kirkland Park Kirkland Road DARVEL
Nature of Proposal:	Proposed Erection of 18 Dwellinghouses with Associated Roads and Parking
Name & Address of Applicant:	Cruden Estates Ltd 98 Kerr Street GLASGOW G40 2QP
Name & Address of Agent:	Hypostyle Architects 49 St Vincent Crescent GLASGOW G3 8NG

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DPOs Reference: CSI/MMM

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

1. No work shall commence on site until such time as the applicant has provided the Planning Authority with written confirmation from Scottish Water that the sewerage system is capable of accommodating the connection of this development.

REASON To ensure that adequate drainage is provided.

2. Before any work commences on site, full details of a Sustainable Urban Drainage System and its maintenance following installation shall be submitted to and approved by the Planning Authority in writing.

REASON To ensure that adequate drainage is provided.

3. No demolition, site clearance or building operations shall be commenced until chestnut pale fencing of a height not less than 1.2 metres has been erected around the trees identified as covered by Tree Preservation Orders and the area of trees and bushes along the former railway embankment (excluding the area on which works are to be carried out) and on the bank of the Glen Water. The fencing shall enclose either:

(a) the area described by the limit of the spread of the branches of the tree/bushes;

or

(b) a radius of 5 metres from the trunk of the tree, whichever is the greater.

Such fencing shall be maintained during the course of development, and no storage, site structure, parking or any other operation shall be permitted within the area thereby enclosed.

**REASON** To ensure the retention of the maximum number of trees and bushes on the site and their protection from damage in the interests of visual amenity and the prevention of bank erosion.

4. Prior to the commencement of the development, a survey of the Glen Water river bank shall be submitted to and approved by the Planning Authority, indicating that the stability of the river bank is adequate to cope with the development's requirements. Said survey shall be provided by a suitably qualified and experienced structural or civil engineer.

**REASON** To ensure the development does not have a negative impact on the integrity of the river banking.

5. No development shall be carried out to the former railway embankment during the bird nesting season.

**REASON** To ensure the existing wildlife is not significantly disrupted by the development works.

6. Notwithstanding the approved plans a tree boundary screen shall be provided on the southern boundary of the site prior to the occupation of the first of the dwellinghouses, or in the first available planting season thereafter. Details of tree types and sizes and of the future maintenance programme shall be submitted to and approved by the Planning Authority prior to the commencement of the development.

**REASON** To preserve the setting of the adjacent listed building.

7. A landscaping scheme including the treatment of the boundary of the site, (other than where condition 6 has effect), and of public open space areas and all landscaped areas within the boundary of the site, shall be submitted to and approved by the Planning Authority prior to commencement of any development, and shall be implemented not later than the next appropriate planting season after the completion of 18 houses. The scheme shall include details of the provision to be made for the maintenance of soft and hard landscaped areas, and shall be maintained thereafter in accordance with these details.

REASON To ensure that adequate provision of public open space is provided, to an adequate standard, and that it is subsequently maintained, in the interest of residential and visual amenity.

8. Notwithstanding the plans hereby approved the houses shall be constructed in brick, roughcast and tile to match the houses Nos. 18-22 Kirkland Road, Darvel. Details/samples of the materials 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.

9. No construction work, site clearance or preparation works shall take place before 08.00 hours and after 18.00 hours on Monday to Friday, and 09:00 hours to 16:00 hours on Saturday and not at any time on Sunday.

REASON In the interests of residential amenity.

10. The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles.

REASON In the interests of road safety and the amenity of the area.

11. Notwithstanding the approved plans, permanent access shall be provided to the area of open space adjacent to the Glen Water.

REASON In the interests of public amenity.

12. Vehicular access shall be maintained at all times to the property at 22A Kirkland Road, Darvel.

REASON In the interests of public amenity.

13. No houses shall be occupied until the roads and footpaths are completed to base course level and the road drainage system is installed. The road and footpath wearing surface shall be completed immediately all the houses are occupied, all to the satisfaction of the Planning Authority.

REASON In the interests of public amenity.

14. Notwithstanding the approved plans the road and footpath surfaces are not hereby approved. Details and samples of materials to be used shall be submitted to and approved by the Planning Authority before commencement of the development on site.

REASON In the interests of visual amenity.

15. The proposed retaining wall, adjacent to Kirkland Road, Darvel, shall utilise the existing stone removed from the railing abutments or some other equivalent material agreed in writing by the Planning Authority.

REASON In the interests of visual amenity.

Notes:

1. The developer shall make early contact with the Scottish Environment Protection Agency and Scottish Water 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.
2. 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.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT  
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S  
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON  
VIEWING PLEASE CONTACT (01563) 576790.**

**AGENDA**