

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 26 JANUARY 2001

**00/0578/FL: PROPOSED NEW HOUSING AT LAND ADJACENT TO DRAFFEN HOUSE, LOUDOUN STREET, STEWARTON
BY LAURISTON PROPERTIES**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The site is divided into two elements, one served by a new access onto Loudoun Street, approximately 65 metres east of the existing driveway to Draffen House. The lower second part of the site is to be accessed by a new access onto Cutstraw/Cutsburn Road, which will require the developer to create an enhancement of the existing roundabout at this point. The application also proposes public open space with play equipment and substantial screen planting to the rear of 14-26 Cutstraw Road, Stewarton. An internal footpath link is also detailed through the site to the former access to Draffen House.

1.2 The site incorporates trees along the driveway to Draffen House, some of which are covered by a Tree Preservation Order. In order to access the roundel of dwellings at the top part of the site, removal of some of the trees will be required. A full tree survey has been undertaken by the applicant.

1.3 The site has been the subject of planning consents for residential use and currently the site enjoys detailed planning consent for 41 houses, under East Ayrshire Council Ref 99/0265/FL, which was granted on appeal; (see paragraph 6.2).

1.4 This new proposal involves the bulk of the approved site with minor additions at the roundabout on Cutstraw/Cutsburn Road and at the area of public open space/childrens play area which is on the southern boundary. As a consequence of those alterations and the reduction in the number of units the proposal may be seen as an improvement on that approved at Appeal.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 The application is considered to be contrary to the development plan. Therefore given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As is indicated in the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to those material considerations, in particular the recent appeal decision, should be greater than that given to the policies in the Adopted Local Plan due to the age of that plan. Accordingly the proposal is considered to be acceptable.

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.

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Report by Head of Planning & Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination, a full planning application which is to be considered under the Scheme of Delegation because it is a larger application which accords with the Finalised East Ayrshire Local Plan and is of area significance.

2. APPLICATION DETAILS

2.1 **Site Description:** The application proposes the development of 37 houses (27 detached and 10 semi-detached) in 5 different designs. The dwellings are proposed to be constructed using render and cast stone blockwork finish and man-made roof tiles.

2.2 **Proposed Development:** The site is divided into two elements, one served by a new access onto Loudoun Street, approximately 65 metres east of the existing driveway to Draffen House. The lower second part of the site is to be accessed by a new access onto Cutstraw/Cutsburn Road, which will require the developer to create an enhancement of the existing roundabout at this point. The application also proposes public open space with play equipment and substantial screen planting to the rear of 14-26 Cutstraw Road, Stewarton. An internal footpath link is also detailed through the site to the former access to Draffen House.

2.3 The site incorporates trees along the driveway to Draffen House, some of which are covered by a Tree Preservation Order. In order to access the roundel of dwellings at the top part of the site, removal of some of the trees will be required. A full tree survey has been undertaken by the applicant.

2.4 The site has been the subject of planning consents for residential use and currently the site enjoys detailed planning consent for 41 houses, under East Ayrshire Council Ref 99/0265/FL, which was granted on appeal; (see paragraph 6.3).

2.5 This new proposal involves the bulk of the approved site with minor additions at the roundabout on Cutstraw/Cutsburn Road and at the area of public open space/childrens play area which is on the southern boundary. As a consequence of those alterations and the reduction in the number of units the proposal may be seen as an improvement on that approved at Appeal.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Scottish Environment Protection Agency has stated that there are no objections to the proposal on the understanding that foul drainage is connected to the public sewer. In addition they require principles of sustainable urban drainage to be applied for the treatment and disposal of surface water from roofs and hardstandings.

Noted. The principles of sustainable urban drainage can be adopted in the context of the applicant's necessary permissions for connection to the public sewer.

3.2 The Coal Authority has confirmed that the application site is not affected by past, current or future workings.

Noted.

3.3 West of Scotland Water has indicated that there are no over-riding impediments to development, although the topography of the site will require specific consideration, relative to surface run-off and the use of sustainable urban drainage systems.

The requirement to undertake specific drainage requirements as part of any residential development is ultimately the developer's responsibility in liaison with West of Scotland Water. The requirements can be indicated to the applicant by means of a note attached to any grant of consent.

3.4 The Department of Community Services have confirmed that previous comments relating to the appeal decision can be taken on board in respect of this application. These are as follows:-

- (i) that 1 tree which is identified for removal, appears to be healthy (No. 17 as shown on Drawing No. L208.01A) and should not be removed on health/condition grounds. Other trees which are proposed to be removed would more than be replaced with extra planting within the site.

- (ii) The two houses nearest the existing trees on the roundel are too close. A protective fence would be required at 8m to protect not only these trees, but all existing trees on the site from root damage by excavators.
- (iii) The screen of Betula Pendula trees on the northern boundary, may form quicker if they were planted as heavy standards.

Noted. These aspects were suitably addressed in the appeal decision and the conditions utilised then could be attached to an approval at this time.

3.5 East Ayrshire Council Education Department have confirmed that they have no objection to the proposed development. They have advised that school children of secondary school age could not be guaranteed accommodation at Stewarton Academy. If this occurs then the Council would be required to maintain its statutory duties by redirecting pupils to alternative schools.

Noted. An extract from the decision letter on appeal (EAC Ref 99/0265/FL) is quoted in paragraph 6.3 below.

3.6 West of Scotland Archaeology Service have referred to previous consultation responses submitted on this matter and confirm that a standing stone within the application site was added to the Sites and Monuments Records in February 1999. As such, in accordance with NPPG5 (Archaeology and Planning) and PAN 42 (Archaeology), a number of options exist:

- (i) The site should be preserved in situ.
- (ii) The Planning Authority should require that the developer provide further information on the potential archaeological issue before determining any planning application.
- (iii) A desk study should establish whether there was archaeologist interest.

The Sites and Monuments description makes clear that a prehistoric origin seems unlikely, although it is none the less a potential material consideration and it is strongly recommend that the evaluation takes place before determination.

- (i) ***Given the history of this site this issue is not unanticipated. Previously, the issue of the stone in the application site has been raised and no archaeological interest was highlighted. It has previously been intimated to Committee, via a former Councillor for the area, that the stone was erected by a local farmer, approximately 50 years ago, as a scratching stone for cattle.***

The applicant is aware of the Archaeology Service's views and has indicated that a sworn Affidavit establishing beyond reasonable doubt that there is no archaeological interest would be submitted. This is currently being pursued. The applicant has, however, indicated that they are prepared to accept a condition relating to the production of an Affidavit or the requirement for an Archaeological Desk Top Study.

- (ii) ***In the determination of the appeal the Reporter took on board this particular matter and attached a condition securing a mechanism to address the standing stone. If the Committee are of a mind to approve this application then the same condition would be attached.***

3.7 Stewarton and District Community Council has not responded to date.

Noted.

3.8 East Ayrshire Roads & Transportation Division have confirmed that they have no objection to the proposal provided the following provisions are met:

1. Access to the site from the public road to be in accordance with the standards indicated in the Roads Development Guide.
 - a) The formation of a mini-roundabout at the junction with Cutstraw Road appears satisfactory, though it can only be confirmed when the engineering design is provided at roads construction consent stage.
 - b) The T-junction onto Loudoun Street cannot provide a safe access without extending the existing 30 mph limits to the bottom of the hill, after which a sightline standard of X=2.5 metres and Y=90 metres will be required for the access.
2. Direct access onto Loudoun Street for individual dwellings will require the same standards of sightline as for junctions.
3. If the sightline standard for junctions or accesses cannot be achieved the developer may receive a relaxation provided the existing public road is traffic calmed in accordance with the roads development guide. The cost of all changes to the existing road network will be the responsibility of the

developer and should be undertaken before the commencement of any construction work on site.

4. Pedestrian access from the development joins the existing public network at Cutstraw Road. To reach this location from the upper part of the development a link footpath is proposed. It is necessary that the developer ensures that the gradient of such a footpath does not exceed the limits set in the roads development guide as this footpath will necessarily be adopted by the Roads Division. The maximum gradient permissible to be 8% but a desirable limit of 5% should be sought.

Noted. These comments are similar in content to the response on the earlier application as referred to above; (East Ayrshire Council Reference: 99/0268/FL) this was approved at Appeal and it would be intended to attach the same conditions as were appended to the decision notice for that Appeal, if the Committee are of a mind to approve the application.

4. REPRESENTATIONS RECEIVED

No letters of objection have been submitted in relation to this application.

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 Adopted Ayrshire Joint Structure Plan and the Adopted Stewarton Local Plan (1985). The Adopted Local Plan was prepared within the context of the then Adopted Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the proposal would fall to be considered against policy 4.1.3 which requires that “housing development outwith committed sites (at that time) and settlement boundaries shall not be allowed except for housing in the countryside as defined by specific policies.”

The application site is outwith the defined settlement boundary of Stewarton. Consequently this proposal is considered to be contrary to the development plan and has been advertised accordingly.

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

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 1999), the planning history and the impact on the amenity of the area/adjacent properties.

6.2 Current Development Plan Status

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

The application site is now included within the Stewarton settlement boundary as defined in that plan and is identified as a housing opportunity. Accordingly the principal of housing would be considered to accord with the EALP under Policy RES1 which states “The Council will encourage and support the residential development of those Development Opportunity Sites identified for housing purposes. The site identified will be reserved for residential and associated recreational and amenity open space requirements.”

This policy which was prepared against the background of NPPG1 and 3 (The Planning System and Land for Housing respectively) has a threefold purpose:-

- ***to meet the requirements of the Ayrshire Joint Structure Plan***
- ***to maximise the benefits offered by the area settlements in terms of existing transportation, service infrastructure and related community facilities***
- ***to provide the framework for future sustainable residential development in East Ayrshire.***

Accordingly it is considered that this proposal accords with the both the relevant policy and its justification as detailed in the EALP.

6.3 Planning History – Application No 99/0265/FL as referred to in paragraph 2.4 above was tabled before the Northern Area Local Planning Committee on 3 September 1999 with a recommendation for approval.

The application was considered by the Committee and refused on the following grounds:

“The application constitutes an over-development of housing provision in Stewarton, giving rise to an unattainable demand upon secondary education facilities and exacerbating the shortfall in leisure facilities. These

matters are sufficient to outweigh the provision of the Finalised Kilmarnock and Loudoun District Plan as a result of its age and (in respect of the supply of land for housing) the inaccuracy of the housing provision due to windfall sites and density of development on other sites.”

That decision was appealed to the Scottish Ministers who after consideration concluded specifically that local secondary schools, including Kilmarnock Academy, can accept the number of pupils which are likely to be generated by this proposed development. The decision notice observed “that the Council’s Director of Education does not object to the proposal and simply draws attention to the fact that some pupils might not be able to attend Stewarton Academy. No evidence has been presented to substantiate the claims that there is a shortfall in local leisure facilities or that the proposal would exacerbate such a shortfall.”

Accordingly the reporter sustained the appeal and granted full planning permission subject to conditions.

6.4 Impact on amenity of area and adjacent preparations

It is considered that this proposal can be supported in terms of the above consideration. The application is less intensive with a higher specification of house type and mix than the current approval and is accordingly considered to be an improvement on that proposal. The only discernible negative aspect is that certain houses are positioned closer to the rear boundaries of existing properties on Cutstraw Road with a potential to give rise to an overlooking issue. It is considered prudent to seek an amended siting of these houses by condition to re-position the houses approximately 2m further into the site.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSION

8.1 As is indicated above in paragraph 5.2 the application is considered to be contrary to the development plan. Therefore given the terms of Section 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise. As is indicated in paragraph 6 above there are material considerations relevant to this application. It is considered that the weight that should be attached to those material considerations, in particular the recent

appeal decision, should be greater than that given to the policies in the Adopted Local Plan due to the age of that plan. Accordingly the proposal is considered to be acceptable.

9. RECOMMENDATION

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

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

17 January 2001
IW/MS/FD

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultations replies.
4. Letters of objection.
5. Amendments to the application.
6. Correspondence from/to the applicant.
7. Stewarton Adopted Local Plan (Finalised Version).
8. East Ayrshire Local Plan.
9. NPPG 1, 3 & 5.
10. PAN 42.
11. Previous planning applications: KL/W/OL/92/276A, 96/0363/OL & 96/0364/OL.
12. Appeal Decision: 99/0265/FL.

Anyone wishing to inspect the Background Papers listed above should contact Mr Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

i:Comrep/Northern/000578

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/0578/FL

Site of Proposal	Land Adjacent to Draffen House Loudoun Street STEWARTON KA3 5JD
Nature of Proposal	Proposed New Housing
Name & Address of Applicant	Laurieston Properties Ltd 18 Westminster Terrace GLASGOW G3 7RU
Name & Address of Agent	McIntyre Associates 90 Seaward Street GLASGOW G41 1HJ

DPO's Reference IW/FD

The above FULL application should be approved, subject to the conditions on the attached sheet.

1. No development served by the proposed access road off Loudoun Street or off Loudoun Street itself shall commence until: (a) the 30 mph speed zone has been extended beyond the junction of those 2 roads; (b) a scheme of traffic calming for a section of Loudoun Street on either side of the proposed junction and residential accesses is submitted to and approved in writing by the Planning Authority, and has been implemented in accordance with that scheme; (c) visibility splays have been established at that access junction measuring 2.5 metres back from the carriageway edge of the public road and such distances along that carriageway edge in each direction as shall be agreed in writing by the Planning Authority (commensurate with the speed limit and traffic calming arrangements) – nothing shall be erected or grown within those splays greater than 1 metre in height above the edge of carriageway level and (d) the proposed footpath within the site, linking the access road off Loudoun Street with the access road off Cutstraw Road, has been constructed in accordance with details previously agreed in writing by the Planning Authority.

REASON In the interests of road safety.

2. No development served by the proposed access road off Cutstraw Road shall commence until; (a) a scheme for amending the design of the existing mini-roundabout to accommodate the new access road has been submitted to and approved in writing by the Planning Authority, and has been implemented in accordance with that scheme. That scheme shall include indication of visibility splays and within those splays nothing shall be erected or grown greater than 1 metre in height above the edge of carriageway level; and (b) details of a footway connection from the site access road to the existing public footway network on Cutstraw Road have been agreed in writing with the Planning Authority (that connection to be implemented prior to occupation of the first house).

REASON In the interests of road safety.

3. No houses shall be occupied until the associated road and footways are constructed to base course level and the road drainage system is installed. As soon as all of the houses in either cul-de-sac are built, the associated road and footway wearing surface shall be completed.

REASON In the interests of road safety and residential amenity.

4. Notwithstanding the plans hereby approved the position of the houses in Plots 20, 21 & 25 are not approved; further details confirming the position of these houses shall be submitted to and approved by the Planning Authority prior to the commencement of work on site. The houses shall be relocated a further 2 metres into the site.

REASON In the interests of residential amenity.

5. Development shall not begin until details of the scheme of hard and soft landscaping works have been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- a) existing and finished ground levels in relation to a fixed ordnance datum;
- b) existing landscaping features to be retained and, in the case of damage, restored;
- c) location and design, including materials of walls (including retaining walls), fences and gates.
- d) details of play area equipment
- e) soft and hard landscaping works;
- f) treatment of the boundary of the site/areas of public open space/play areas.
- g) existing and proposed services;

- h) programme for completion and subsequent maintenance.
- i) indication of existing trees and shrubs to be removed, those to be retained and, in the case of damage, proposals for their restoration.
- j) location of new trees, shrubs, hedges and grassed areas;
- k) schedule of plants to comprise species, plant sizes and proposed numbers/density.
- l) programme for completion and subsequent maintenance.

REASON In the interests of visual amenity.

6. All hard and soft landscaping works shall be carried out in accordance with the programmes approved in writing by the Planning Authority further to Condition 5 above.

REASON In the interests of visual amenity.

7. Development shall not begin until details of earthworks have been submitted to and approved in writing by the Planning Authority. Details shall include existing and proposed levels (in relation to a fixed ordnance datum), and contours in relation to surrounding vegetation and landform (with datum levels). Development shall be carried out in accordance with the approved details.

REASON In the interests of visual/residential amenity.

8. Existing trees and shrubs on the site shall not be lopped, topped, felled, removed or disturbed in any way without the prior written consent of the Planning Authority.

REASON In the interests of visual amenity.

9. Development on the site shall not begin until trees indicated for retention on the drawing L280.01A have been protected by suitable fencing in accordance with the British Standards Institution Code of Practice for Trees in Relation to Construction (BS 5837:1991). No storage, site storage, parking or any other operation shall take place within that protected area. Details of this fencing shall be submitted for the consideration of the Planning Authority, and no work shall begin until written approval of the Planning Authority has been given.

REASON To ensure the retention of the maximum number of trees on the site and their protection from damage in the interest of visual amenity.

10. During construction work on the site, including the laying of services, no excavation shall be undertaken under the crown of trees.

REASON To ensure the retention of the maximum number of trees on the site and their protection from damage in the interest of visual amenity.

11. Before development begins, a scheme for the maintenance of open space areas within the development shall be submitted to and approved in writing by the Planning Authority.

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.

12. Any trees or shrubs, including hedges on the site which, in the opinion of the Planning Authority, are dying, severely damaged, or diseased within 5 years of planting shall be replaced by trees or shrubs of a similar specification to those originally planted.

REASON In the interests of visual amenity.

13. No development shall commence until details, including timing of provision, of the measures to be taken to prevent the passage of surface water from the site onto adjacent properties, both during and after the building and engineering works, have been submitted to and approved in writing by the Planning Authority. The measures shall thereafter be carried out in accordance with the details as agreed.

REASON In the interests of residential amenity and public safety.

14. No development shall commence until details and, where requested, samples of external construction materials have been submitted to and approved in writing by the Planning Authority.

REASON In the interests of visual amenity.

15. No development shall take place within 10 metres of the standing stone on site until either evidence of a modern origin for the stone has been submitted to the Planning Authority and is accepted by the Authority; or a desk-based analysis of existing archaeological information has been submitted to the Planning Authority and measures for the protection or recording of the stone and its site have been agreed in writing by the Authority.

REASON To ensure that appropriate archaeological work is undertaken prior to commencement of development near the standing stone.

Note to Applicants

The applicant is advised to make early contact with West of Scotland Water with regard to the provision of sewers and the surface water drainage system. The latter should employ the principles of sustainable urban drainage.

AGENDA