

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 08 AUGUST 2003

**03/0520/OL: PROPOSED OUTLINE APPLICATION FOR RESIDENTIAL
DEVELOPMENT
AT MAXWOOD HOLDINGS, GALSTON
BY J & A CUNNINGHAM**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 **Proposed Development:** Outline planning permission is sought for the principle of residential use on the site. No specific number of units have been put forward but if approved, the applicant's agent has verbally advised that it is intended to construct one unit on the site.

2. RECOMMENDATION

2.1 **It is recommended that the outline planning application be refused for the reasons on the attached sheet.**

3. CONCLUSIONS

3.1 As is indicated in Section 5 above, the application is considered to be contrary to the development plan. Therefore, given the terms of Sections 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 Section 6 above, there are material considerations relevant to this application, however, it is considered that these are of insufficient weight to overcome the presumption in favour of the development plan and would support the refusal of this application.

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 would require to be referred to the Development Services Committee as there would be a significant breach of Council policy.

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.

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 08 AUGUST 2003

**03/0520/OL: PROPOSED OUTLINE APPLICATION FOR RESIDENTIAL
DEVELOPMENT
AT MAXWOOD HOLDINGS, GALSTON
BY J & A CUNNINGHAM**

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 outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation because it represents a departure from the Development Plan and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** This application relates to an area of land some 30 metres wide by 70 metres deep at Maxwood Holdings outwith the settlement boundary of Galston. It is situated between two residential properties which are single storey in height. The site is unoccupied at present and comprises grassland, bound by hedging to the south and post and wire trip fencing to the other boundaries.

2.2 **Proposed Development:** Outline planning permission is sought for the principle of residential use on the site. No specific number of units have been put forward but if approved, the applicant's agent has verbally advised that it is intended to construct one unit on the site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Council's Roads and Transportation Division have no objections to the proposal subject to the following conditions:-

- (i) A vehicle access should be located (constructed to meet the standard indicates in the Roads Development Guide) where a sightline standard of $x = 2.5$ metres and $y = 70$ metres can be achieved which will require the lowering of the existing hedge to below 1.0 metres adjacent to the entrance;

- (ii) The vehicle entrance should be large enough to allow the refuse lorry to pull off the road while collecting the bins.

Noted. If Members choose to grant consent these requirements can be conditioned.

3.2 The Council's Environmental Health and Waste Management Division have no objection in principle subject to the provision of adequate services. Scottish Water will be able to confirm the adequacy of supply for any additional connection. Sewage disposal will require to be to the satisfaction of the Building Control Service and Scottish Environment Protection Agency. In addition this may require to negotiate wayleave consent to connect outfall drainage.

Noted. These issues are not material planning considerations and would be considered as part of any application for a Building Warrant. Any requirement for wayleave consent over adjoining land would be a legal matter for the relevant landowners to discuss.

3.3 The Coal Authority have not raised any issues that would warrant the refusal of this application.

Noted.

3.4 The Scottish Environment Protection Agency have no objection to the proposal provided foul drainage connection to a septic tank and total soakaway arrangement, in accordance with current Codes of Practice.

Noted. If Members choose to grant consent these requirements can be conditioned.

3.5 Scottish Water advise that there is an existing public water main located in the street adjacent to the site which may be suitable to provide a supply to the proposed development. There are no known sewers to which a connection may be made from the proposed development. Drainage will require to be treated by septic tank or other suitable treatment system to the satisfaction of SEPA.

Noted. If Members choose to grant consent these requirements can be conditioned.

3.6 Galston Community Council have not replied to their consultation at the time of writing this report.

Noted.

3.7 West of Scotland Archaeology Service have no adverse comments to make on the proposal.

Noted.

4. REPRESENTATIONS

One letter of objection has been submitted to the proposal and the points raised are as follows:-

4.1 The proposals are believed to be contrary to East Ayrshire Council's planning policy in relation to residential development in the countryside. It is not considered that the site could pass the test of reasonableness in relation to locational need, development of brownfield sites or ribbon developments. This view is based on the size of the site (approximately 1/3 of an acre), current use (agriculture) and location (within a group of smallholdings).

Noted. Members are referred to the comments under section 5 of this report.

4.2 Any previous developments on neighbouring land have been based on the demolition of existing buildings, all located on the site of former smallholdings. As far as can be established the area in which the proposed development is located was purchased in 1925 by the Scottish Office Agriculture Department for smallholdings. This was a development of some 240 acres and was effectively to the east of and bounded by the public road which leads from Maxwood Road, Galston to Newmilns.

Noted. Members are referred to the comments under Section 5 of this report.

4.3 The area has, rightly, been retained for agricultural purposes and has not been the subject of sporadic development. The nature and character of the area has been maintained.

Noted. Members are referred to the comments under Section 5 of this report.

4.4 There must also be some doubt as to whether or not the infrastructure of the basic services could sustain the development. For example, drainage to the property would be by septic tank or a small treatment works. The discharge it is assumed would ultimately be to the Burnawn thereby placing additional pressure on water quality. The water supply is also likely to cause some difficulty.

Members are referred to the comments of consultees in Section 3 of this report.

4.5 There is a 'blind' corner immediately to the east of the development and would respectfully suggest that this could be a potential risk. On paper this does not look significant but in reality, due to the height of hedges, etc, there could be difficulty with sightlines.

Members are referred to the comments of the Council's Roads and Transportation Division in Section 3 of this report.

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 Adopted East Ayrshire Local Plan.

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 Policy G5 of the AJSP states that proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlement boundaries, development proposals shall conform to the Structure Plan only where the development:-

- A - has demonstrated a site specific locational need;
- B - can be justified in terms of social and economic benefit to the community;
- C - contributes to rural land diversification; or
- D - provides for the operational needs of agriculture and forestry.

The applicant has not provided any justification for the proposed development and it is not therefore considered to accord with Structure Plan Policy.

Adopted East Ayrshire Local Plan

5.3 It is considered appropriate to assess the application against the terms of Policy RES 13 which is the principle point of reference in situations where housing is proposed in the countryside. This Policy echoes the AJSP provision and states that the Council will only be supportive of residential development in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis.

- (i) For a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;

- (ii) For a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;
- (iii) As an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) As an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES 9.

The position has been assessed against the policy background and it is considered that the proposal is not compatible with the terms of RES 13.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of this application are the planning history, consultation responses and letters of representation and the impact on the amenity of the area.

Planning History

6.2 There was a planning application Ref: KL/E/OL/93/248A, granted by the former Kilmarnock and Loudoun District Council for the erection of a dwellinghouse. This was a replacement dwellinghouse and incorporated land additional to that within this application site specifically including a building to be demolished.

Consultation Responses and Representations

6.3 None of the consultation responses raise any issues that would warrant the refusal of this application.

6.4 The letter of representation raises issues that warrant the refusal of this application in terms of Policy consideration discussed in Section 5 of this report.

Impact on Amenity of Area

6.5 This particular consideration is in outline difficult to fully quantify. The site is currently overgrown but not too unsightly and no evidence has been presented of it generating nuisance complaints.

It is considered that residential development could be accommodated on site with no significant detriment to the immediate area. Notwithstanding this, the proposal remains contrary to

policies applied consistently to prevent development in the countryside where there is no specific justification.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated in Section 5 above, the application is considered to be contrary to the development plan. Therefore, given the terms of Sections 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 Section 6 above, there are material considerations relevant to this application, however, it is considered that these are of insufficient weight to overcome the presumption in favour of the development plan and would support the refusal of this application.

9. RECOMMENDATION

9.1 It is recommended that the outline planning application be refused for the reasons 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 would require to be referred to the Development Services Committee as there would be a significant breach of Council policy.

Alan Neish
Head of Planning and Building Control

28 July 2003
(FMF/MMM)
FV/AN

LIST OF BACKGROUND PAPERS

1. Application Form/Plans.
2. Statutory Notices/Certificates
3. Consultation Responses.
4. Correspondence with Applicant.
5. Letter of Representation.
6. Adopted East Ayrshire Local Plan.
7. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0520/OL

Site of Proposal:	Maxwood Holdings GALSTON
Nature of Proposal:	Proposed Outline Application for Residential Development
Name & Address of Applicant:	J & A Cunningham Burnawn Garage GALSTON Ayrshire
Name & Address of Agent:	ARCTEC Designs 23 Dallas Place TROON Ayrshire KA10 6JE

DPOs Reference: FMF/MMM

The above OUTLINE application should be refused on the following grounds:-

1. The proposed development would constitute the erection of a new dwelling in the countryside without acceptable justification and would therefore not be in accordance with Policy RES 13 of the Adopted East Ayrshire Local Plan. In detail Policy RES 13 states that:-

“The Council will be supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;

- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES 8.”

The proposed development fails to comply with any of these criteria.

2. The proposed development is contrary to Policy G5 of the Approved Ayrshire Joint Structure Plan in that it does not comply with the provisions of this policy in respect that the development proposal:-

- A - has not demonstrated a site specific locational need;
- B - cannot be justified in terms of social and economic benefit to the community;
- C - does not contribute to rural land diversification; or
- D - does not provide for the operational needs of agriculture and forestry.

**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.**