

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 05 DECEMBER 2003

**03/0679/OL: PROPOSED UPGRADING OF ACCESS ROAD AND CREATION
OF NEW RESIDENTIAL DEVELOPMENT
AT HAPLAND MILL, DUNLOP
BY R & S MUIRHEAD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the upgrading of the access road and the creation of new residential development. A housing layout has been submitted in support of the application which provides a representation of how the site may be developed. This layout is only indicative at this stage but does depict 11 houses sited mainly on the level section of the site backing onto the rise up towards the area of land that separates the site from Howies Yard. An access road is detailed to the front of the houses north of the Glazert Burn.

1.2 Given the constraints of the site including the establishment of a Provisional Tree Preservation Order over existing trees on the site and the development description, further specific details have been submitted detailing a safe access provision and the impact this access would have on the existing trees enclosing the avenue. Those details confirm the provision of a new roundabout at the mouth of the avenue and an upgraded approach to the site. The circumstances of the application detail a solution that involves a modern access geometry on the west side of the access and the retention of the current road line on the east side. These details illustrate the applicant's belief that there would be a loss of 4 of the 7 trees provisionally protected in this area at this time.

2. RECOMMENDATION

9.1 It is recommended that outline planning permission be granted subject to the conditions on the attached sheet and 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 5.5 and 7.2 of the report.

3. CONCLUSIONS

3.1 As indicated in section 5 of the report the application is considered to be acceptable on balance terms of the development plan. Accordingly the application should be approved unless material considerations indicate otherwise. Those considerations are detailed in section 6 of the report and are considered, in particular respect of the favourable consultations and the history of the site, to add weight to a favourable recommendation. Specifically the issues of perceived noise nuisance being deemed not to be of a scale to justify the refusal of the application and the planning history of the site with the related determinations in respect of the trees on site, together add weight to a favourable view.

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 it would not constitute a significant departure from 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.

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Report by Head of Planning and Building Control

1. PURPOSE OF THIS REPORT

The purpose of this report is to present an outline planning application which requires to be considered by the Local Planning Committee because the application is of area significance and is subject to objection

2. APPLICATION DETAILS

2.1 **Site Description:** The site is the former Hapland Mill site at Dunlop. The site extend to 1.38Ha and is currently accessed off the Stewarton (A735) Road via a short treelined avenue and existing culvert over the burn. The site was part formerly occupied by the mill complex which had been vacant for a considerable period and fallen into disrepair. This complex was demolished recently and the site is currently in a semi cleared and over grown condition with a level grassed meadow on the east side.

2.2 The site is characterised by a reasonably flat area on its southern and eastern sections, but slopes upwards towards the residential property and attached walled garden to the north of the west most section of the site. Further east the site is mainly level in character but is bounded to the north by a very steep strip of land which is over grown and unkempt. The site of Howies of Dunlop yard sits to the north of this strip on an elevated position. To the west the site is bounded by two existing residential properties accessed via the same bridge. To the south the site is bounded by the Glazert Burn and a further strip of private land then a raised outcrop with chicken sheds on the upper level.

2.3 **Application Details:** Outline planning permission is sought for the upgrading of the access road and the creation of new residential development. A housing layout has been submitted in support of the application which provides a representation of how the site may be developed. This layout is only indicative at this stage but does depict 11 houses sited mainly on the level section of the site backing onto the rise up towards the area of land that separates the site from

Howies Yard. An access road is detailed to the front of the houses north of the Glazert Burn.

2.4 Given the constraints of the site including the establishment of a Provisional Tree Preservation Order over existing trees on the site and the development description, further specific details have been submitted detailing a safe access provision and the impact this access would have on the existing trees enclosing the avenue. Those details confirm the provision of a new roundabout at the mouth of the avenue and an upgraded approach to the site. The circumstances of the application detail a solution that involves a modern access geometry on the west side of the access and the retention of the current road line on the east side. These details illustrate the applicant's belief that there would be a loss of 4 of the 7 trees provisionally protected in this area at this time.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have confirmed that they have no objections to the application subject to the securing of a number of issues. These include:

- The provision of a footway along the north side of the indicative roundabout
- The provision of service strips for the new road way.
- The provision of a flood risk assessment.
- The provision of a new bridge across the Glazert Burn.

Additionally they have confirmed that the indicative roundabout appears to conform to their requirements but further detailed information would be necessary to formally confirm the position.

These aspects have been the subject of correspondence with the applicant who has in part responded by confirming their acceptance of a number of issues advising of his preference to address the matters at the detailed stage.

It is understood through discussions with the applicant that the existing culvert/bridge will require to be replaced. On the basis of this it has been confirmed by the Section of the Council's Roads Division responsible for issues of flooding that the new culvert or bridge will be designed in a manner to mitigate against any potential flooding. Consequently the flood risk assessment is not required at this time.

3.2 Scottish Environment Protection Agency has advised of no objection to the principle of the application provided that the foul drainage from the site is connected to the public sewer. They have additionally advised that a condition should be applied that secures the treatment of surface water from the site on the principles of sustainable urban drainage systems. Finally they require the developer to contact their office in connection with the potential for polluting the watercourse from construction works.

Noted. Certain of these aspects can be addressed by means of a condition at this stage. Other matters would be more appropriately dealt with at the reserved matters or detailed stage.

3.3 Scottish Water have confirmed that there is a public sewerage system available for connection. They have confirmed that separate application would require to be made to their office for permission for this connection. Scottish Water have also confirmed that they may refuse to grant permission for this connection or seek separate provisions in that respect.

Noted.

3.4 Dunlop and Lugton Community Council have confirmed that they have no objection to the application and welcome the improvements to a poor road junction with the A735.

Noted .

3.5 East Ayrshire Council's Environmental Health Service have been specifically requested to comment on the consideration of noise from the adjacent industrial site impacting on the amenity of residents of any new houses and as a consequence of those residents raising sufficient complaint that action by that Service would in turn impact on the ability of the industrial use to operate competitively/effectively. This request was made with the particular knowledge that historically this issue had been raised and considered to be of sufficient importance to warrant the requirement of an acoustic barrier along the north end of the site.

The Environmental Health Service have advised that, based on their records and knowledge of the commercial site and its relationship with the application site, they could not currently sustain a valid objection to the proposal on the grounds of noise nuisance. Additionally having been requested to offer comment on the requirement for any acoustic barrier they have confirmed that they do not consider that they could justify the inclusion of such a requirement.

They have confirmed that should circumstances alter they may have to initiate action under their own statutory powers under the Control of Pollution Act to address such an issue if it arises and results in complaints from any resident.

This would include and apply to complaints from both existing and any new residents in the application site.

Noted.

- 3.6 East Ayrshire Council's Community Services Department initially advised that they object to the application on the grounds of the impact the access will have on the mature trees at the access to the site.

Noted. This aspect has been the subject of considerable correspondence and it is considered that the current proposal, whilst it involves the development of a brownfield site unidentified for any express purpose in the Local Plan is in principle acceptable. The issue of tree loss is significant at the access point as the site is constrained. The applicants have endeavoured to present a solution which is acceptable in respect of providing a safe access whilst retaining 3 of the protected trees. The details have been carefully assessed and it is considered that this proposal will not allow the anticipated tree retention. Indeed, all the provisionally protected trees at the access will be lost if access is to be formed to the development.

The Department is also of the view that the existing trees within the avenue are of relatively poor quality having been constrained by their position into rather unattractive specimens which although relatively healthy are not in themselves worthy of protection in terms of their contribution to the amenity of the area.

It is considered that, given the age of the trees, the planning history of the site and the absolute necessity to remove the most important trees in the avenue to achieve any type of improved access at this location, the opportunity could be taken to create a new avenue. This option would also permit a wholly new road access arrangement which, with the proviso of securing semi mature replacement tree planting at an early stage, will allow increased benefit to the amenity of the area. On the basis of such an approach the Community Services have withdrawn their concerns.

- 3.7 Transco have advised that they have no objections to the application but that the proximity of their plant or apparatus within or adjacent to the site may require diversion works. They request the developer to contact them prior to commencing work on site.

Noted. This aspect can be addressed by means of a note to a consent if the Committee are of a mind to approve the application.

3.8 Scottish Natural Heritage have raised no objection to the proposals but request that investigations take place to establish the precise or otherwise location of bats which are a protected species. In the event of bats being found, Scottish Natural Heritage should be further consulted and a licence would be required to disturb them.

Noted. This matter can be addressed by a condition attached to any consent.

3.9 The Coal Authority have no objections to the proposal.

Noted.

4. REPRESENTATIONS AND ISSUES RAISED

4.1 One letter of objection has been submitted in connection with this application. That letter was submitted on behalf of Howie of Dunlop and specifically raised the historic application (see below) and the concerns that were raised at that time in particular connection with complaints from residents having the effect of constraining their ability to operate to their full commercial potential. That letter explains the company activities and confirms that it currently restricts as a consideration to existing residents, its more intrusive operations at the rear of its site close to the application site.

Noted. (See the response from The Council's Environmental Health Service.) It must be borne in mind that there is potential for a degree of disturbance from commercial/industrial use impacting on residential properties and any potential purchaser should be conscious of that when considering a house adjacent to or in close proximity to such businesses The Environmental Health Service have advised that should there be actionable noise nuisance generated from the adjacent site then they would have to consider action against Howies of Dunlop. However, as stated above, they do not consider that such an event is likely.

The applicants who are aware of the content of the objection have submitted a petition signed by 14 local residents which confirms that they have had no cause for complaint in respect of any noise generated from operations at Howie's 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 and the Adopted East Ayrshire Local Plan (2003). It is considered appropriate to assess the application against the terms of the Local Plan.

5.2 The site lies within the urban envelope in the Adopted Local Plan and accordingly the principle of residential development is acceptable within the terms of RES 4.

5.3 Policy RES 4 encourages the sympathetic redevelopment of sites for residential purposes subject to certain provisions. As the application is in outline those provisions relate to matters of impact on the natural and built environment resources and transport and infrastructure implications.

In respect of the former it is considered that the proposal as a consequence of loss of existing trees conflicts with the terms of the policy.

5.4 Policy ENV 15 confirms that the Council will actively seek to preserve existing trees throughout East Ayrshire. The policy continues by confirming that the Council will protect such resources by serving Tree Preservation Orders as considered appropriate.

On the basis of the above considerations in respect of the loss of trees at the entrance to the site the application is considered to be a minor departure from policy.

5.5 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.

5.6 In summary the principle of the proposal is acceptable but the loss of trees is a minor departure from policy which on balance is acceptable. The proposal is on balance in accordance with the Development Plan and should be approved.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other material considerations relevant to the determination of this application are the consultation responses, letters of objection and history of the site.

The consultations and the letters of objection are addressed in the report and the application, bearing in mind it is in outline, is considered to be appropriate against the terms and requirements raised.

History of the Site

6.2 Hapland Mill has a mixed history. In excess of 10 years ago several overlapping applications were considered by the preceding authority and ultimately at appeal. Those applications were as follows:-

KL/W/OL/89/158A: Outline planning permission for construction of access road 9 detached dwellings and the provision of recreation facilities. Received 21/7/89.

KL/W/FL/89/158B: Change of use and conversion of mill to 8 flats erect new dwellings and flats. The site part overlapped that of the above. Received 21/7/89.

Both these applications were assessed and refused at Committee on the 3rd May 1990 on the following grounds:-

'The proposed development would be detrimental to road safety as the road junction on the A735 to access the site is not satisfactory, particularly for main road traffic and pedestrians'

6.3 In the determination of these applications objections on behalf of the adjacent Howies industrial yard were also considered and at that time it was concluded that the evidence submitted demonstrating the noise issues was not sufficiently significant to warrant an additional reason for refusal. To quote from the report to committee at that time

'the survey of noise generated by this industrial concern is inconclusive and as a result the Department (Environmental Health) does not wish to object to the application.'

The applicants chose to appeal these decisions. The appeals were dismissed on the 28th Oct 1993

6.4 During the assessment of the above applications an additional application was submitted to the then planning authority involving part of the same site. That application submitted by a different applicant involved outline planning

permission for the erection of 12 houses with garages and alterations to junction, (KL/W/OL/89/158C refers). The application was given due consideration and as it successfully addressed the access concerns inherent in the other applications, was recommended to Committee for approval.

6.5 The issue of noise was again explored extensively in the assessment of this application but again that specific consideration was deemed inconclusive. The conditions proposed within the Committee report therefore did not involve any specific conditions to mitigate against perceived nuisance of that type. Following a site visit and a public hearing on the application it was determined to refuse the application on the grounds that:-

'The proposed development would be contrary to policy HU 3 of the Kilmarnock and Loudoun Finalised District Plan as it is likely to be detrimental to and be adversely affected by the adjacent industrial use'

6.5 The applicant appealed that decision to the Scottish Office whose Reporter after consideration in which he concluded that the trees on the site 'were not notable specimens' approved the application subject to a number of conditions which included the following under condition 7:-

'None of the buildings hereby permitted shall be occupied until there has been constructed in accordance with details to be submitted to and approved by the planning authority in writing a solid barrier against noise along or as close as practicable to the boundary of the site with the industrial land occupied by Robert Howie and Sons.'

No full or reserved matter application was submitted subsequent to this decision.

6.7 As stated above this matter has been put to the Council's Environmental Health Service who have advised that they do not consider that such an approach would be necessary given the current circumstances on site and the relationship between the application site and the industrial site.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in determining this application. The issue of the Council's Environmental Health Service potentially instigating action against the operators of the adjacent industrial land under the Control of Pollution Acts cannot be entirely discounted, but again the Service has stated that it could not sustain a valid objection to the proposal on the grounds of noise nuisance.

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 acceptable on balance terms of the development plan. Accordingly the application should be approved unless material considerations indicate otherwise. Those considerations are detailed in section 6 of the report and are considered, in particular respect of the favourable consultations and the history of the site, to add weight to a favourable recommendation. Specifically the issues of perceived noise nuisance being deemed not to be of a scale to justify the refusal of the application and the planning history of the site with the related determinations in respect of the trees on site, together add weight to a favourable view.

9. RECOMMENDATIONS

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CONTRARY DECISION NOTE

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Alan Neish
Head of Planning and Building Control

28 November 2003

(IW/IMB/SA)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. East Ayrshire Council Design Guidance (2001).
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Representations.
8. Previous Applications.

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0679/0L

Site of Proposal: Hapland Mill, DUNLOP
Nature of Proposal: Proposed Residential Development
Name & Address of Applicant: R & S Muirhead
Name & Address of Agent:

DPOs Reference: IW/IMB

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

1. Before any development commences on the site, the further approval of the Planning Authority shall be obtained in respect of the under mentioned matters hereby reserved:-
 - (a) The layout of the site;
 - (b) The size, height, design and external appearance of the proposed dwellinghouses.
 - (c) The means of drainage and sewage disposal;
 - (d) Details of the access arrangements;
 - (e) The provision for open space and associated maintenance arrangements;
 - (f) The provision for car parking;
 - (g) The boundary walls/fences to be erected;
 - (h) The landscaping of the site and associated maintenance arrangements;
 - (i) Finished site levels/floor levels.

REASON The approval is in outline only.

2. Details submitted in pursuance of condition 2 above shall include;
 - (a) a new roundabout on the A735 as per the details in drawing no 03.18.02 received by the Planning Authority on the 16th Oct 2003.

(b) a new access road with 2m wide footway on its northwest side and 1m wide service strip on its south side from the A735 to the site shall be centrally located in the southwest approach section of the application site

(c) a new road and pedestrian bridge to be provided across the Glazert Burn

REASON In the interests of road safety

3. The access to the site as detailed in conditions 2 and 3 above shall be completed prior to the commencement of construction work on the new dwellinghouses.

REASON In the interests of road safety

4. Details submitted in pursuance of condition 1 above shall provide for the provision of surface water treatment to accord with the principles of Sustainable Urban Drainage Systems as detailed by CIRIA,

REASON In the interests of public health and residential amenity.

5. Details submitted in connection with condition 1 above shall provide for the provision of replacement trees bounding the new access road. Said trees shall be of semi mature age and details of their species and means of planting and maintenance thereafter shall be submitted for the approval of the Planning Authority

REASON In the interests of visual amenity

6. Details to be submitted under condition 1 above shall comply in all respects with the Councils design guidance as detailed in policy ENV 7 of the Adopted Local Plan.

REASON In the interests of visual and residential amenity

7. The landscaping details further to condition 1 above shall confirm a predominance of trees over shrubs. The landscaping scheme shall be implemented within one year from the date of commencement of the development and shall also specifically address the visual quality of the slope to the north of the site.

REASON In the interests of residential amenity

8. The landscaping details further to Condition 1 above shall indicate treatment to those parts of the site outwith that land fued to house plots. Said landscaping shall be implemented within one year from the date of commencement of the development. The scheme shall include details of the

provision to be made for the maintenance of planted areas and any trees removed without the consent of the Planning Authority or damaged at any time thereafter shall be replaced by trees of similar size and species as may be agreed in writing by the Planning Authority.

REASON In the interests of visual amenity.

10. Surveys shall be undertaken within the estate to ascertain the presence, location and numbers of species protected under the Wildlife and Countryside Act (bats) prior to the commencement of any works on site. In particular, any protected habitats identified or areas of significance for shelter or feeding should be appropriately mitigated for in consultation with and agreed by Scottish Natural Heritage.

REASON To meet the requirements of Scottish Natural Heritage

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. The applicant is also advised to note that an internal road will require to be provided with a standard residential turning head and in terms of a SUDS system, the Roads Division will require the road drainage to be either discharged into the public sewer or a watercourse. The design of any SUDS system into which road surface water is to pass will require the approval of the Roads and Transportation Division.

6. This site is known/suspected to be contaminated. You should be aware that the responsibility for the safe development and secure occupancy of the site rests with the developer.

7. The Planning Authority has determined the application on the basis of the information available to it. This does not necessarily mean that the land is free from contamination.

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