

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 23 JANUARY 2004

**03/0843/FL: PROPOSED CONSTRUCTION OF 2 SEMI-DETACHED HOUSES
AT VACANT SITE ON EAST SIDE OF EAST CHURCH COURT, NEWMILNS
BY MR J CUNNINGHAM**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to erect two one and a half storey semi-detached 3-bedroom dwellinghouses on a levelled plinth within the lower part of the site. The dwellinghouses have been shown to face the road end at East Church Court, set back 8.5 metres from the nearest part of the road end. Retaining works are proposed on the northern slope in order to stabilise the site. The proposed development of the site requires a substantial degree of excavation and earth remodelling works. Car parking is proposed to the front of the dwellings and also adjacent to the site, resulting in the loss of an established Birch tree. 4 Flowering Cherry trees have been shown within this area to compensate for the loss of the Birch tree.

1.2 It is proposed to finish the dwellinghouse walls in a white dry dash render with a brown facing brick basecourse, and clad the roof in grey concrete tiles. It is proposed to install white uPVC windows.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application.

3.2 The proposed development does not result in an unacceptable level of underbuilding. A physically acceptable form of development is proposed which, whilst involving remodelling and retaining works within the site, is not unduly detrimental to the visual amenity of the area. Adequate vehicular access can be formed to serve the dwellinghouses and an appropriate level of car parking provision has been shown. The design and finishes proposed relate well to adjacent development at East Church Court.

3.3 The application under consideration is technically contrary to policy G5 of the Ayrshire Joint Structure Plan and Policy RES 13 of the East Ayrshire Local Plan. However, bearing in mind the particular configuration of the settlement boundary at this particular location, the existence of an adequate access to serve the development, the suitable form of development proposed, and the planning history of the site, the Committee are requested to make an exception to policy in this particular case. Given the circumstances of this particular case, it is not considered that such a development would give rise to a precedent for new residential development outwith and adjacent to existing settlement boundaries.

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 because such a decision would not represent a significant departure from 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.

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BY MR J 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 a planning application which is to be considered by the Local Planning Committee under the scheme of delegation due to the fact that the proposed development is contrary to policy and is recommended for approval, and the application is also subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site extends to approximately 1500 square metres and is located on the east side of East Church Court, an established residential street on the north-eastern edge of Newmilns. The site slopes steeply from north to south, is open in nature and unkempt. The site contains a number of semi-mature shrubs and trees. The southern boundary of the site is well defined by mature trees. Adjacent to the turning head at East Church Court, a mature Birch tree is located within a maintained area open space.

2.2 The site is bounded to the north and east by undeveloped land, to the south by established residential development, and to the east by the turning area within East Church Court, an established residential area of suburban character.

2.3 **Proposed Development:** It is proposed to erect two one and a half storey semi-detached 3-bedroom dwellinghouses on a levelled plinth within the lower part of the site. The dwellinghouses have been shown to face the road end at East Church Court, set back 8.5 metres from the nearest part of the road end. Retaining works are proposed on the northern slope in order to stabilise the site. The proposed development of the site requires a substantial degree of excavation and earth remodelling works. Car parking is proposed to the front of the dwellings and also adjacent to the site, resulting in the loss of an established Birch tree. 4 Flowering Cherry trees have been shown within this area to compensate for the loss of the Birch tree.

2.4 It is proposed to finish the dwellinghouse walls in a white dry dash render with a brown facing brick basecourse, and clad the roof in grey concrete tiles. It is proposed to install white uPVC windows.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has commented that a 6 metre wide access will be required for parking which will involve kerbs being dropped. Car parking spaces must be assigned to each house. A 2 metre wide footway requires to be constructed to the Roads Division's specification and a road opening permit must be obtained prior to the occupation of the dwellings.

Noted. A vehicular access to Roads Division's requirements has been shown on the submitted plan with car parking spaces assigned to each house. A 2 metre wide footway has also been shown on the submitted plan. Conditions and appropriately worded notes can be attached to any planning permission granted to ensure that the proposed development meets the requirements of the Roads and Transportation Division.

3.2 Newmilns Community Council and The West of Scotland Archaeology Service have not responded to their consultation letters.

Noted.

3.3 Scottish Water has commented 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. Separate applications will have to be made for the provision of site water mains, if required, and service connections. There is a public sewerage system to which a connection may be made from the proposed development. A totally separate drainage system of foul and surface water sewers will be required.

Noted. Appropriately worded notes can be attached to any grant of planning permission to make the developer aware of the requirements of Scottish Water.

3.4 The Coal Authority, Transco, British Telecom and Scottish Power have no objections to the proposed development.

Noted.

3.5 The Scottish Environment Protection Agency (SEPA) has commented that they have no objections in principle provided that the foul drainage from the

development is connected to the public foul sewer system serving Newmilns. All waste materials generated by the development that are required to be removed (such as construction and demolition wastes) which may also include excavated material, must be removed from the site by authorised persons. Waste must be removed to a site that has either an appropriate waste management licence or registered exemption from licensing, as issued by SEPA.

Noted. Appropriately worded notes can be attached to any grant of planning permission to make the developer aware of the requirements of SEPA.

4. REPRESENTATIONS

One letter of representation has been received which has been summarised below :-

4.1 The proposed development will invade privacy, create noise and pollution, and result in heavy construction machinery moving to and from the site.

It has been noted that the site is located adjacent to existing residential development. It is not considered that the dwellinghouses proposed will detract from adjacent residential amenity by means of disturbance, overlook or daylighting impact. Regarding construction works on the site, should planning permission be granted for the proposed development, it would be reasonable to attach a condition limiting the hours of operations on site in the interests of residential amenity and to prevent noise and disturbance extending into hours during which other sources of noise have subsided.

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 (EALP).

5.2 The application relates to a greenfield development site lying directly adjacent to but outwith the settlement boundary of Newmilns. The site lies within the Rural Protection Area.

Ayrshire Joint Structure Plan

5.3 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- A has a demonstrated 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 development does not comply with any of the above and is therefore not compatible with the policy.

East Ayrshire Local Plan

5.4 Policy RES13 is 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 for one of four stated purposes:-

- (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 above.

None of those purposes is pertinent to the application under consideration. The proposal is contrary to the provisions of the policy.

5.5 Policy RES 13 also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support. In addition, the policy enables the Council to request applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information.

No site specific need for the development has been demonstrated to the satisfaction of the Council. No detailed supporting information for the development has been received.

5.6 Policy RES17 states that residential development in the countryside will not be permitted in nine stated circumstances. One of these circumstances is pertinent to the application, this being:

- (iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries;

The proposal represents an extension of development into the countryside from the boundary of the settlement. However, the extension is not necessarily considered to be “inappropriate” in this particular case. The application site is very steeply sloping and was excluded from the settlement boundary in the local plan for that reason, it being considered that the site was too steep to accommodate any acceptable physical development. However, the applicant has demonstrated that the proposed housing can be accommodated on the site without any undue underbuilding being required. It can therefore be considered acceptable and logical to permit a residential development in the area. The site can also be easily accessed from an existing access road and is bounded on its northern, western and southern boundaries by the existing Newmilns settlement boundary. It is considered that the development of the site would therefore neatly round off the settlement boundary in this area. For the above mentioned reasons, the development could be considered appropriate in terms of the above policy. Given this and the content of the submitted details, the application can be considered to be a minor departure from the Development Plan Policy as detailed in Paragraphs 5.3, 5.4 and 5.5.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the consultation responses, the representations received, and the planning history of the site.

Consultations Responses

6.2 The consultation responses do not indicate that the application should be refused.

Representations

6.3 Subject to the imposition of an appropriately worded condition limiting the hours of operations on site in the interests of residential amenity and to prevent noise and disturbance extending into hours during which other sources of noise have subsided, it is considered that the representation received is not of sufficient weight to justify refusal of the application.

Planning History

6.4 Outline planning permission was granted on 23 April 1984 for residential development (Ref KL/E/84/14) at a corner site at Winnockland, off King Street, Newmilns.

6.5 The former Loudoun East Church site was accepted for housing purposes in the finalised version of the Irvine Valley Local Plan dated October 1985 which was never formally adopted. This designation included the application site.

6.6 Approval of reserved matters as specified in outline planning consent number KL/E/84/14 was granted on 25 April 1986 (Ref KL/E/84/14B) for the residential development for 13 dwellings at Winnockland, King Street, Newmilns. This consent included two single storey semi-detached dwellinghouses located within part of the current application site. These dwellinghouses were never constructed under the terms of this consent.

6.7 The application site (which remained undeveloped under the terms of application Ref KL/E/84/14B) was deemed to be outwith the Newmilns settlement boundary in the current East Ayrshire Local Plan, adopted in April 2003, on the basis that the site was considered at that time to be too steep to easily accommodate any acceptable physical development.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application.

8.2 The proposed development does not result in an unacceptable level of underbuilding. A physically acceptable form of development is proposed which, whilst involving remodelling and retaining works within the site, is not unduly detrimental to the visual amenity of the area. Adequate vehicular access can be formed to serve the dwellinghouses and an appropriate level of car parking provision has been shown. The design and finishes proposed relate well to adjacent development at East Church Court.

8.3 The application under consideration is technically contrary to policy G5 of the Ayrshire Joint Structure Plan and Policy RES 13 of the East Ayrshire Local Plan. However, bearing in mind the particular configuration of the settlement boundary at this particular location, the existence of an adequate access to serve the development, the suitable form of development proposed, and the planning history of the site, the Committee are requested to make an exception to policy in this particular case. Given the circumstances of this particular case, it is not considered that such a development would give rise to a precedent for new residential development outwith and adjacent to existing settlement boundaries.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed 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 because such a decision would not represent a significant departure from Council policy.

Alan Neish
Head of Planning and Building Control

14 January 2004
(RD/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Application Ref KL/E/84/14.
8. Application Ref KL/E/84/14B.
9. Irvine Valley Local Plan (Finalised Version) (1985).

Anyone wishing to inspect the above background papers should contact Robert Duncan on 01563 576 771.

Implementation Officer: Dave Morris

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0843/FL

Location	Vacant Site on East Side of East Church Court NEWMILNS KA16 9JQ
Nature of Proposal:	Proposed Construction of 2 Semi-Detached Houses
Name and Address of Applicant:	Mr J Cunningham 10c Crosshouse Road KILMAURS KA3 2SA
Name and Address of Agent	Fleming Muir Architects 20 St Quivox Road PRESTWICK KA9 1LJ

DPO's Ref: Robert Duncan (RD/MMM)
PPO's Ref: Ian Walker

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

1. Apart from where the conditions listed below require otherwise, the proposed development shall be carried out in accordance with the application form received on 11 September 2003 and the amended and additional plans received by the Planning Authority on 8 December 2003.

REASON To ensure that the development is carried out in accordance with approved details.

2. Notwithstanding the terms of the above condition, works external to any building shall not be carried out prior to 08:00 hours and after 18:00 hours on Mondays to Saturdays, and not at any time on Sundays.

REASON To prevent noise and disturbance extending into hours during which other sources of noise have subsided, in the interest of residential amenity.

3. Notwithstanding the approved plans and the terms of condition 1 above, any gates to be provided within the site shall open away from the public road to prevent obstruction.

REASON In the interests of road and public safety

4. Notwithstanding the approved plans and the terms of condition 1 above, prior to each dwellinghouse being completed or brought into use, 2 car parking spaces shall be formed and thereafter maintained as shown on the approved plan.

REASON To ensure that adequate car parking provision is available in relation to the approved development and thereby to secure the interests of road safety and residential amenity.

5. Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no extensions, garages, outbuildings or other structures shall be erected unless a further specific planning application is submitted to and approved by the Planning Authority.

REASON To enable the Planning Authority to ensure that such structures are provided in a manner compatible with the visual amenity of the area and to protect residential amenity.

6. Notwithstanding the approved plans and the terms of condition 1 above, details of the design and construction of all fences, retaining works, and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on site. These details shall fully confirm the suitability of retaining works adjacent to the proposed house.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity and public safety.

7. Notwithstanding the approved plans and the terms of condition 1 above, a 2 metre wide footway to the satisfaction of East Ayrshire Council Roads and Transportation Division shall be formed in the position shown on the approved plan.

REASON In the interests of road and public safety.

8. Notwithstanding the approved plans and the terms of condition 1 above, the vehicular access to the site must be taken via a standard dropped kerb driveway access crossing to East Ayrshire Council Roads standards.

REASON In the interests of residential amenity and road safety.

9. Notwithstanding the approved plans and the terms of condition 1 above, 2 number off-road car parking spaces will require to be provided for each proposed dwellinghouse prior to the relevant dwellinghouse being completed or brought into use.

REASON To ensure that adequate car parking provision is available in relation to the approved development and thereby to secure the interests of road safety and residential amenity.

10. No surface water shall issue from the site onto the public road.

REASON To ensure the provisions and maintenance of a secure road surface in the interests of road and public safety.

11. Notwithstanding the approved plans and the terms of condition 1 above,, any gates to be provided shall open away from East Church Court to prevent obstruction to the footpath and/or road.

REASON In the interest of road safety.

12. East Church Court shall be maintained free of mud and other materials deposited by vehicles exiting the site during preparation/construction works by means of mechanical brushing or other means to be agreed in writing by the Planning Authority prior to the commencement of development.

REASON In the interests of residential amenity and road safety.

NOTES TO APPLICANT

1. Scottish Water has advised that contact should be made with their Developer Services section to discuss how the proposed development would be best served by a public water supply. Scottish Water Developer Services can be contacted on Tel 0845 601 8855.

2. Prior to works commencing on site, the applicant is advised to contact SEPA, 31 Miller Road, Ayr, KA7 2AX (Tel: 01292 294 000), in respect of connections to the public foul sewer and dealing with waste generated by the development.

3. East Ayrshire Council Roads and Transportation Division have advised that a road opening permit will be required for any proposed works within the public road boundary. The Division can be contacted on Tel (01563) 576359.