

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 23 JANUARY 2004

**03/0561/FL: PROPOSED ERECTION OF DWELLINGHOUSE AND
PROPOSED CHANGE OF USE FROM AGRICULTURAL TO RESIDENTIAL
AT PLOT 1, CEMETERY ROAD, GALSTON
BY MR & MRS COCHRANE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of a single storey 4-bedroom dwellinghouse within the site. The proposed dwellinghouse would be accessed from Cemetery Road via a 5.5 metre wide access road with a 2.0 metre wide footpath shown on one side of the access. A commercial turning area has been shown from the access road.

1.2 The proposed dwellinghouse is extensive and incorporates a hipped roof. External finishes comprise render walls with a facing brick basecourse and smooth cement render window margins. It is proposed to clad the roof with concrete tiles and form windows in white uPVC.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet, and that the issuing of the Decision Notice be withheld until the Solicitor to the Council has concluded the Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8.2 of the Report.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the application is 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 approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. However, it is considered that these material considerations are not of sufficient weight to justify refusal of the application.

3.2 It is recommended that the proposed development should be approved subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (i) The formation of a 2.0 metre wide footway to adoptable standard between the application site and the existing public footpath opposite Barr Street, Galston; and
- (ii) The provision of a right of access over part of the application site to enable the Council's Outdoor Services Department to access an area of land for upkeep and maintenance.

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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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 full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the application is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located to the west of Galston Cemetery and extends to approximately 1560 square metres. The site is located above the level of Cemetery Road and the adjacent site that is the subject of application 03/0600/OL which is to be considered concurrently with this application. The site is located on the edge of the Galston settlement boundary. The land to the west and south of the site is open in nature. The site is located in an elevated position relative to surrounding residential development.

2.2 **Proposed Development:** Full planning permission is sought for the erection of a single storey 4-bedroom dwellinghouse within the site. The proposed dwellinghouse would be accessed from Cemetery Road via a 5.5 metre wide access road with a 2.0 metre wide footpath shown on one side of the access. A commercial turning area has been shown from the access road.

2.3 The proposed dwellinghouse is extensive and incorporates a hipped roof. External finishes comprise render walls with a facing brick basecourse and smooth cement render window margins. It is proposed to clad the roof with concrete tiles and form windows in white uPVC.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Councils Outdoor Services Section has commented that it has no objections to the proposed development. However, vehicular access via the site will be required to maintain the grass/tree area adjacent to the site. To

prevent any future confusion, a legally binding agreement should be made prior to the commencement of work on site.

Noted. In the circumstances, it would be appropriate to establish such an access arrangement by means of a Section 75 legal agreement.

3.2 East Ayrshire Council's Roads and Transportation Division has commented that the formation of a new road to serve the dwelling proposed will require the standard sightlines to be obtained at the junction with Cemetery Road. The standards at this location would be visibility splay dimensions of $x=2.5$ metres and $y=70$ metres. The required visibility is not available due to the adjacent Cemetery walls to the east and roadside vegetation to the west. A 2.0 metre wide footpath to an adoptable standard should be provided along Cemetery Road to join with the existing public footpath to the east at Barr Street. The formation of a footway along Cemetery Road will affect the existing road drainage and the applicant will be required to provide a new drainage system. The new site access road proposed requires to be constructed with a carriageway 5.5 metres wide, with 2.0 metre wide footways or service strips on both sides. A standard residential turning head will be required at the end of the access road. The road drainage of the new access will require a Sustainable Urban Drainage System to be provided.

In respect of the sightlines required at the access to the site, the applicant was granted a servitude right of access for pedestrians under the terms of his title deeds when the land was purchased from Kilmarnock and Loudoun District Council. This deed of servitude also includes a right to intensify the use of the access and a right to create visibility splays on the Council land adjoining the access road where it joins Cemetery Road. Therefore, the issue of the visibility splays can be covered by means of an appropriately worded condition given that the applicant has sufficient control over these sightline areas. The formation of the footpath to join with the existing public footpath to the east at Barr Street requires to be formalised by means of a Section 75 Agreement under the terms of the Town and Country Planning (Scotland) Act 1997. The new site access road has been shown with a carriageway width 5.5 metres wide with 2.0 m wide footpaths. A standard residential turning head has been shown within the site. The SUDS scheme required can be the subject of an appropriately worded suspensive condition.

3.3 An alternative approach to the development would be to close Cemetery Road to through-traffic by the formation of two turning areas either side of the Cemetery. This would allow the deletion of the requirement for a footway and also visibility at the new junction to be reduced. The closure of Cemetery Road

will require an Order to be promoted by the Roads Division and could be subject to objection.

The access arrangements proposed do not involve road closure and are considered to be acceptable.

3.4 Scottish Power has not objected to the proposed development.

Noted.

3.5 The Coal Authority has commented that the property is within the likely zone of influence on the surface from workings in 4 seams of coal at 50 metres to 110 metres depth. The site is within 20 metres of a mine entry. However, ground movement from past coal workings should by now have ceased.

In view of the mining circumstances of the site, a prudent developer would seek appropriate technical advice before works are undertaken on site. In this respect, a condition can be attached to any grant of planning permission.

3.6 Scottish Water has not objected to the proposed development. Contact should be made with Developer Services to discuss how the proposed development would be best served with a public water supply. There is a public sewerage system to which a connection may be made from the proposed development. The applicant should satisfy himself, by site investigation if necessary, that relative levels are such as will allow the development to be connected at a gradient acceptable to Scottish Water.

3.7 The applicant must make a separate application to Developer Services for permission to connect to the public sewerage system at the appropriate time. Scottish Water may refuse permission to connect, or grant permission to connect, subject to conditions as they think fit. A totally separate drainage system of foul and surface water sewers will be required. A Technical Advisor is available for consultation purposes where specialist advice is required on this matter.

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

3.8 The Scottish Environment Protection Agency (SEPA) has not objected to the proposed development on the understanding that the foul drainage is connected to the public sewer. In addition, any planning permission granted should include a condition requiring the applicant to treat surface water from the site in accordance with the principles of the Sustainable Urban Drainage

Systems Design Manual for Scotland and Northern Ireland, which was published by CIRIA in March 2000.

Should planning permission be granted for the proposed development, an appropriately worded condition can be imposed to ensure that a SUDS arrangement to SEPA's satisfaction is implemented within the development to deal with surface water drainage. The applicant would be expected to connect to the public sewer.

3.9 Galston Community Council has objected to the application on the grounds of over-development of the area and the potential problem with the sewage system in the area, i.e. the back-up of sewage when there is high water in the Burnawn.

The site has been designated within the local plan for 4 residential units. The proposal does not therefore comprise over-development of the area. Scottish Water have not objected to the proposed development.

3.10 Strathclyde Fire Brigade has no objections to the proposed development.

Noted.

3.11 Transco has provided information indicating that none of their apparatus is located within or directly adjacent to the site.

Noted.

4. REPRESENTATIONS

4.1 Apart from the representations received from Galston Community Council, no letters of representation have been received in respect of the application.

Noted.

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 (2003).

Ayrshire Joint Structure Plan

5.2 There are no Structure Plan policies directly relevant to this application.

Noted.

East Ayrshire Local Plan

5.3 Policy RES 1 states that the Council will encourage and support the residential development of those Development Opportunity Sites identified for housing purposes on the individual Local Plan maps. The sites identified will be reserved for residential and associated recreational and amenity open space development.

The application site is part of a Development Opportunity Site (205H) identified for housing purposes within the East Ayrshire Local Plan. The indicative capacity of the entire zoned area is 4 residential units. Residential development of the site is therefore acceptable in principle. In relation to the adjacent dwellinghouse plots proposed under the terms of outline planning permission 03/0600/OL, it is not considered that the proposed dwellinghouse will compromise standards of residential amenity on adjacent plots, once they have been developed, by means of daylight impact or overlook.

5.4 Policy RES 22 states that all developers will require to observe the minimum private open space criteria and standards detailed in Schedule 4 of the Local Plan. The standards quoted may however, be relaxed at the discretion of the Council in respect of the conversion of existing properties to flats where the case for such a relaxation can be fully justified by the developer and where considered appropriate by the Planning Authority.

5.5 Schedule 4 of the Local Plan sets out minimum private open space standards for detached dwellinghouses of 100 square metres per dwellinghouse. Additionally, at least 60% of each total plot area should be reserved as private open space.

The proposed development accords with the open space standards contained within the Local Plan.

5.6 Policy ENV 7 requires developments to comply with the terms of the Councils existing and emerging Design Guidance. The policy is aimed at ensuring that a high standard of development is achieved within the Council area.

In the context of development in the locality, the design of the proposed dwellinghouse is considered acceptable for a site that is

zoned within the settlement boundary. Appropriately worded conditions require to be attached to any planning permission granted in respect of the finishes of the dwellinghouse and the formation of appropriate boundary treatment to the settlement boundary where it borders open land.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

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

Consultations Responses

6.2 Subject to the imposition of appropriately worded conditions and the conclusion of a Section 75 Legal Agreement, the consultation responses do not indicate that the application should be refused.

Representations

6.3 The representations received from the Community Council have been reproduced in Section 3 of the Report. These representations are not considered to be of sufficient weight to justify refusal of the application.

Planning History

6.4 There is no planning history directly relevant to the consideration of the application. Part of the application site was formerly used to access industrial premises at the application site.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 Financial implications will arise through the requirement for the Council to facilitate the formation of visibility splays measuring 2.5 metres by 70 metres on either side of the access point from the public road to the site. Objects located within this site will require not to exceed 1 metre in height above the adjacent carriageway. This requirement has arisen due to the deed of servitude considered in Section 3.2 of the Report.

7.2 Legal implications will arise through the requirement for a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997, with regard to the requirements contained within Section 8.2 of the Report.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application is 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 approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application. However, it is considered that these material considerations are not of sufficient weight to justify refusal of the application.

8.2 It is recommended that the proposed development should be approved subject to a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 to include the following obligations on the part of the developer:

Section 75 Agreement

- (iii) The formation of a 2.0 metre wide footway to adoptable standard between the application site and the existing public footpath opposite Barr Street, Galston; and
- (iv) The provision of a right of access over part of the application site to enable the Council's Outdoor Services Department to access an area of land for upkeep and maintenance.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet, and that the issuing of the Decision Notice be withheld until the Solicitor to the Council has concluded the Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 dealing with the matters itemised in section 8.2 of the Report.

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

15 January 2004
(RD/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

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: 03/0561/FL

Location	Plot 1 Cemetery Road GALSTON
Nature of Proposal:	Proposed Erection of Dwellinghouse and Proposed Change of Use from Agricultural to Residential
Name and Address of Applicant:	Mr & Mrs Cochrane c/o Nicoll Design
Name and Address of Agent:	Nicoll Design 184 Main Street PRESTWICK, KA9 1PG

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 20 June 2003 and the amended plans received by the Planning Authority on 9 January 2004,

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

2. Notwithstanding the terms of condition 1 above, visibility splay areas measuring 2.5 metres from the nearer edge of Cemetery Road into the site, and 70 metres measured along the edge of Cemetery Road from the centre line of the proposed access shall provided in either direction at the junction of the proposed access with Cemetery Road, prior to the occupation of the dwellinghouse within the site. Thereafter, no obstructions to visibility greater than 1 metre in height shall be allowed within these splay areas.

REASON To enable drivers of vehicles leaving the site to have an unimpeded view over a length of road sufficient to allow safe exit onto Cemetery Road.

3. Notwithstanding the terms of condition 1 above, the access road serving the development shall provide for a surfaced carriageway 5.5 metres wide with 2.0 metre wide footways or service strips on either side. A standard residential turning head will require to be provided at the end of the access road to the satisfaction of the Planning Authority.

REASON To allow adequate space for vehicles entering and leaving the site and allow vehicles to enter and leave the site in forward gear, in the interests of road safety.

4. Notwithstanding the terms of condition 1 above, a Sustainable Urban Drainage System to treat and minimise surface water run-off within the site shall be developed to the requirements of the Scottish Environment Protection Agency (SEPA) and the Council as Planning Authority, implemented prior to the occupation of the dwellinghouse, and thereafter maintained for the lifetime of the development.

REASON In order to facilitate the disposal of surface water run-off as a result of the development.

5. Notwithstanding the terms of condition 1 above, car parking shall be formed as shown on the approved plan prior to the completion or occupation of the dwellinghouse hereby approved.

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.

6. Notwithstanding the terms of condition 1 above, prior to the commencement of works on site, samples of all materials to be used for the external finishes of the dwellinghouse shall be submitted to and approved in writing with the Council as Planning Authority.

REASON To ensure that full details of all the external finishes of the dwellinghouse are agreed, in the interests of visual amenity.

7. Notwithstanding the terms of condition 1 above, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved in writing with the Planning Authority before any development commences on site.

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

8. Notwithstanding the terms of condition 1 above, a landscaping scheme including the treatment of the boundaries of the site shall be submitted to and approved by the Planning Authority prior to the commencement of any development, and shall be implemented not later than the next appropriate planting season after the development has been carried out.

REASON In the interests of visual amenity.

9. The applicant shall satisfy himself as to the suitability of the site for the development proposed in respect of mine workings adjacent to the site.

REASON In the interests of public safety.

Notes to Applicant:

1. The applicant will require to secure the necessary Roads Construction Consent, details of which should be discussed with the Roads and Transportation Division of East Ayrshire Council.

2. A copy of the consultation response received from The Coal Authority are attached. The developer is strongly advised to note same and take any appropriate recommended action.

3. The applicant should make early contact with Scottish Water at their Office at 35 Glenburn Road, Prestwick, KA9 2NS, Tel 0845 601 8855.

4. SEPA have advised that all drainage arrangements should be to the public sewer and consideration given to the use of Sustainable Urban Drainage (SUDS) techniques for the disposal of surface water. The developer is advised to contact SEPA at 2 Alloway Place, Ayr, KA7 2AA, Tel 01292 294 000, particularly with regard to confirming the consequences, if any, of surface water drainage connection to the public sewer.