

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 23 JANUARY 2004**

**03/0600/OL: PROPOSED RESIDENTIAL DEVELOPMENT FOR 3 PLOTS  
AT PLOTS 2, 3, AND 4, CEMETERY ROAD, GALSTON  
BY MR & MRS COCHRANE**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for the erection of 3 dwellinghouses within the site. An indicative layout of the proposed houses has been provided to show a potential arrangement within the site. Each of the proposed dwellinghouses 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 with individual accesses to each plot, and car parking shown. A cross-sectional detail through the site has been provided to demonstrate that levels of underbuilding will not exceed 1 metre per dwellinghouse.

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

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The site is located to the west of Galston Cemetery and extends to approximately 3240 square metres. The site slopes from the south-west towards the north-east. 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. Cemetery Road runs past the northern boundary of the site.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of 3 dwellinghouses within the site. An indicative layout of the proposed houses has been provided to show a potential arrangement within the site. Each of the proposed dwellinghouses 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 with individual accesses to each plot, and car parking shown. A cross-sectional detail through the site has been provided to demonstrate that levels of underbuilding will not exceed 1 metre per dwellinghouse.

#### 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 dwellings 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 by 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 an appropriately worded 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 outline 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 as part of any further detailed application for residential development on the site.***

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. It is not considered that the number of houses proposed represents an over-development of the site.***

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.

***Whilst the application is for outline planning permission only, the plots indicated are large and this Division are satisfied that 3 houses can be comfortably accommodated within the site in accordance 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.

***Given that the application is for outline planning permission at this stage, it would not be appropriate to consider the development against the terms of specific Design Guidance. However, an***

***appropriately worded condition can be attached to any grant of outline planning permission to ensure that future development within the site adheres to this guidance.***

## **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 summarised 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 to the west of 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 Councils 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**

14 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: 03/0600/OL

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Location	Plots 2,3 and 4 Cemetery Road GALSTON
Nature of Proposal:	Proposed Residential Development for 3 Plots (in outline)
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

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

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 dwellinghouse(s);
- (c) the means of drainage and sewage disposal;
- (d) the provision for open space and associated maintenance agreements;
- (e) the provision for car parking;
- (f) the boundary walls/fences to be erected;
- (g) the landscaping of the site and associated maintenance agreements;
- (h) existing and proposed site levels and floor levels.

REASON The approval is in outline only.

2. Notwithstanding the terms of condition 1 above, any dwellinghouses developed within the site shall be restricted to no more than 1 and a half storeys in height and shall be designed in accordance with the principles contained within the Councils Design Guidance on New Residential Development.

REASON In the interests of visual and residential amenity.

3. Notwithstanding the terms of condition 1 above, each dwellinghouse developed within the site shall be restricted to a ground coverage of no more than 30% of individual plot.

REASON In the interests of visual amenity.

4. 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 any dwellinghouses 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.

5. 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.

6. 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 dwellinghouses, 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.

7. Notwithstanding the terms of condition 1 above, any dwellinghouses within the site shall allow for car parking spaces or garages to be provided for each dwellinghouse at a ratio of 2 spaces per 3 or 4 bedroom dwellinghouse, and 3 spaces per 5/6 bedroom dwellinghouse.

REASON To ensure that adequate provision is made for car parking and to prevent on-street car parking, in the interests of road safety.

8. 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.