

EAST AYRSHIRE COUNCIL

**SOUTHERN LOCAL PLANNING COMMITTEE : 30 NOVEMBER 2001
01/0610/FL: PROPOSED REMOVAL OF CONDITION 5 OF PLANNING
PERMISSION 98/0499/FL RELATING TO THE PROVISIONS OF A PLAY
AREA AT BENSTON PARK, BURNTON ROAD, DALRYMPLE**

FOR HOPE HOMES SCOTLAND

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought to remove Condition 5 from planning permission 98/0499/FL, which places the developer under an obligation to provide an equipped children's play area within the site. The applicant proposes to remove the play equipment and perimeter fencing and for the area to remain only as grassed open space.

2. RECOMMENDATION

2.1 It is recommended that the application is refused on the grounds indicated on the attached sheet.

3. CONTRARY DECISION

3.1 Should the Committee agree that the application be approved 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 be a significant departure from Council policy.

4. SUMMARY OF ANALYSIS

4.1 As is indicated at Paragraph 5.1 of the report, there are no policies within the development plan relevant to the determination of this application. However, as is indicated at paragraph 6.1 to 6.4 of the report, there are material considerations relevant to the determination of the application. In that regard, the proposed removal of the play equipment is contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

4.2 The petition noted in Section 4 of the report supports the removal of the play equipment. However, the grounds given are not considered to be of sufficient weight to justify approval of the application.

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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SOUTHERN LOCAL PLANNING COMMITTEE : 30 NOVEMBER 2001 01/0610/FL: PROPOSED REMOVAL OF CONDITION 5 OF PLANNING PERMISSION 98/0499/FL RELATING TO THE PROVISIONS OF A PLAY AREA AT BENSTON PARK, BURNTON ROAD, DALRYMPLE

FOR HOPE HOMES SCOTLAND

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 recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a small, equipped children's play area located within a recently completed residential development at Benston Park which was approved under planning permission 98/0499/FL. The play area lies within an elevated area of open space and is surrounded on three sides by residential properties. The equipment includes swings, a roundabout and spring animals. The play area is enclosed by a one metre high palisade fence.

2.2 **Proposed Development:** Full planning permission is sought to remove Condition 5 from planning permission 98/0499/FL, which places the developer under an obligation to provide an equipped children's play area within the site. The applicant proposes to remove the play equipment and perimeter fencing and for the area to remain only as grassed open space.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Dalrymple Community Council has not responded to the consultation letter.

Noted.

4. REPRESENTATIONS

4.1 Prior to the submission of this current application, a petition was received from local residents with a total of 63 signatories. The petition called for the removal of the play equipment on the grounds that it acts as a location for unruly teenagers, not resident within the development, to congregate in the evenings.

It is not the function of the Planning Authority to control anti-social behaviour. This is a matter for the Police to address . Furthermore, the provision of a play area would not ordinarily in itself generate anti-social behaviour and as such, they are routinely provided within new build developments, in close proximity to residential premises. The objections to the provision of the play area on the grounds of anti-social behaviour are not therefore considered to be of sufficient weight to override the benefits that arise from application of Council policy which seeks amongst other things to provide equipped children's play area.

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 (1999) and the Adopted Dalmellington/Patna/Dalrymple Local Plan (1989). The Adopted Plan was prepared in the context of the then emerging Strathclyde Structure Plan. However, in this instance, there are no policies contained within the Adopted Local Plan relevant to the determination of the application.

Noted.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, Finalised Version with Modifications, the consultation replies and the petition noted above.

East Ayrshire Local Plan

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications 2001) (EALP) should be considered as a prime material consideration.

6.3 This application requires to be determined with regard to Policy RES 19 which states:-

The Council will require all housing developers to provide areas of recreational and amenity open space as an integral part of their development proposals and to make provision for the future maintenance of these areas, once formed, to the satisfaction of the Council. Developers will be expected

to pay due regard to the indicative basic standards set out in Schedule 3 of the Local Plan in preparing their proposals, although the precise type, size, location and design of the open space will be dependent on the extent of existing open space provision in the vicinity and the recreational and amenity needs of the wider area. Prospective developers are advised to consult fully with the Council's Head of Leisure Services in this regard, prior to formulating their development proposals.

Schedule 3 of the Local Plan states:-

Public Open Space Standards

1. *Overall minimum open space provision – 300m² per 10 houses. Provision consists of:*
 - *Active Recreational Open Space (comprising equipped children's play areas, games pitches and other specialist facilities)*
 - *Amenity Open Space (comprising planted area, seating areas, landscaped areas, leisure footpaths etc)*
2. *Open space provision for developments of less than 30 houses is at the discretion of the Council and developers may not be required to provide any element of active recreational open space as described in 1 above.*
3. *All developments of more than 30 houses will require to comply with the 300m² per 10 houses standard detailed above.*

The play equipment was provided specifically to form an area of active recreational open space for young children. A development of this nature (predominantly 3 and 4 bedroom dwellings) might reasonably be expected to have a significant resident proportion of young children. The removal of the play equipment would therefore be contrary to the provisions of Policy RES 19 of the EALP (Finalised Version with Modifications).

Consultation Replies

6.4 The consultation replies do not support approval of the application.

Petition

6.5 The applicant, in support of the application, has indicated a desire by the residents within the development to have the play equipment removed. This is also, supported by the submission of a petition.

See response to 4.1 above.

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 is indicated at Paragraph 5.1 of the report above, there are no policies within the development plan relevant to the determination of this application. However, as is indicated at paragraph 6.1 to 6.4 of the report, there are material considerations relevant to the determination of the application. In that regard, the proposed removal of the play equipment is contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications).

8.2 The petition noted in Section 4 of the report supports the removal of the play equipment. However, the grounds given are not considered to be of sufficient weight to justify approval of the application.

9. RECOMMENDATION

9.1 It is recommended that the application is refused on the grounds indicated on the attached sheet.

Alan Neish
Head of Planning and Building Control
15 November 2001
DS/SMB
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Representations.
3. Consultation replies.
4. East Ayrshire Local Plan, Finalised Version with Modifications.
5. Approved Strathclyde Structure Plan
6. Approved Ayrshire Joint Structure Plan
7. Dalmellington/Patna/Dalrymple Local Plan.
8. Previous application – 98/0499/FL

Any person wishing to inspect the background papers listed above, should contact Mr Derek Scott on 01563 555483.

Implementation Officer : Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 01/0610/FL

| | |
|--------------------------------|--|
| Location | Benston Park, Burnton Road DALRYMPLE KA6 6DY |
| Nature of Proposal: | Proposed removal of Condition 5 relating to the provision of a play area |
| Name and Address of Applicant: | Hope Homes Scotland Watson Terrace DRONGAN KA6 7AB |
| Name and Address of Agent | |

DPO's Ref: [Derek Scott]
PPO's Ref; []

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

1. The proposal is contrary to the provisions of Policy RES 19 of the East Ayrshire Local Plan (Finalised Version with Modifications), which the Council has agreed shall be a prime material consideration in the determinations of applications and which requires the provision of active, recreational open space, including appropriate equipped play areas in residential developments of 10 or more dwellings.

AGENDA

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**