

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE : 11 AUGUST 2000**

**00/0256/FL: ERECTION OF 2 SEMI-DETACHED DWELLINGHOUSES  
00/0407/TP: PROPOSED FELLING OF 3 OAK TREES AND 1 PINE TREE  
AT BANKEND, HARPERBANK GROVE, CUMNOCK  
APPLICATION BY NORTHKIRK LIMITED**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 This is an application for the felling of three elm trees and one oak tree within the site. These trees are protected by the Cumnock Tree Preservation Order No. 1 1997. Full planning permission is also sought for the erection of 2 semi-detached dwellinghouses within the site.

1.2 The development of the site for the dwellinghouses would require the felling of the trees. The applicant proposes to plant four replacement trees within the site.

1.3 A semi-detached dwellinghouse of the same design and finishes of the existing dwellings at Bankend Farm, i.e. two storey with a mixture of facing brick and render and grey tiles, is proposed within the site. The 2 houses will provide 3 bedroom accommodation.

**2. RECOMMENDATION**

**2.1 It is recommended that the applications be approved subject to the conditions on the attached sheet.**

**3. SUMMARY OF ANALYSIS**

3.1 In terms of the East Ayrshire Local Plan, Finalised Version, the proposal conflicts with the policy provisions contained therein as the urban boundary has been drawn tightly around the existing houses.

3.2 It is considered however that the proposed semi-detached dwelling would be an appropriate addition to the existing development at Harperbank Grove, and would not result in isolated/sporadic development in the countryside. Following advice from the Council's Outdoor Services Department, it is considered that the trees present a danger to the general public, and that this justifies their felling. This, taken with the close

juxtaposition to the settlement boundary would result in an appropriate form of development.

3.3 In terms of the letter of objection, it is considered that the proposed development would not have a detrimental impact on the privacy of neighbouring dwellings. A condition could be attached to any planning consent controlling the hours of work during the construction period and requiring vehicles, during the construction period, to park within the site.

**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 jointly present for determination, a full planning application and an application for the felling of trees, covered by a Tree Preservation Order which are to be considered by the Local Planning Committee under the scheme of delegation as the full planning application is subject to an objection.

#### **2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is located on the north side of Ayr Road and immediately west of the housing development at Bankend Farm. The site is divided from the existing housing by a two metre high stone wall which appears to be part of the original boundary of Dumfries Estate.

2.2 The site is bounded to the north and east by the residential development of Bankend, to the south by a stone wall and Ayr Road and to the west by agricultural land.

2.3 The application site extends to 0.054 hectares and forms part of Dumfries Estate. There are four mature trees (3 oak and 1 elm) located within the site.

2.4 **Proposed Development:** This is an application for the felling of three elm trees and one oak tree within the site. These trees are protected by the Cumnock Tree Preservation Order No. 1 1997. Full planning permission is also sought for the erection of 2 semi-detached dwellinghouses within the site.

2.5 The development of the site for the dwellinghouses would require the felling of the trees. The applicant proposes to plant four replacement trees within the site.

2.6 A semi-detached dwellinghouse of the same design and finishes of the existing dwellings at Bankend Farm, i.e. two storey with a mixture of facing brick and render and grey tiles, is proposed within the site. The 2 houses will provide 3 bedroom accommodation.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 Cumnock Community Council have not responded to the consultation letters.

***Noted.***

3.2 Scottish Power have not responded to the consultation letter.

***Noted.***

3.3 British Gas and the Scottish Environment Protection Agency have no adverse comments to make on the proposed developments.

***Noted.***

3.4 The Coal Authority advise that in view of the mining circumstances a prudent developer would seek appropriate technical advice before works are undertaken on site.

***A note could be attached to any planning consent advising the above.***

3.5 The Garden History Society advise that the Dumfries Estate is included within the Inventory of Gardens and Designed Landscapes in Scotland (1987) and is therefore of national importance. The proposed development falls within the boundary of the designed landscape associated with Dumfries House as defined by the Inventory. The Society recognises, however, that this part of the designed landscape has been separated from the core of the estate in recent years by the creation of the A76(T) to Kilmarnock. They recognise also that some housing development has recently been permitted within the immediate vicinity of the proposed site, and that this proposal may now be considered "infill". Therefore, the Society does not consider that in this case the proposal would be likely to adversely affect any further the character and appearance of this part of the Dumfries landscape. They would however recommend that the local authority resist any pressure for further encroachment upon or development within the Dumfries Estate.

***Noted.***

3.6 East Ayrshire Council Roads and Transportation Division have no objection to the proposed development subject to conditions. These include conditions regarding the access, parking and surfacing of the driveway.

***Noted.***

3.7 East Ayrshire Council Outdoor Services carried out an inspection of the trees. They advise that there has been a large amount of rubble dumped and

spread throughout the site and around the trees, thus increasing the ground levels and having an adverse effect on them. Visually all the trees appear to be in poor condition with large amounts of dead wood evident in the oaks. The fir tree has no lower growth and very sparse top growth. This perhaps has been compounded by the rubble which contains building bricks and concrete etc. which may be leeching lime into the base of the fir. Resistograph readings showed that one oak tree has an acceptable reading. Another oak tree showed a low reading indicating soft timber to a depth approximately 40cm. The other oak tree is in such poor condition that a reading was not necessary to determine its condition.

Given the general condition of the trees on this site and the very poor long term prognosis and given the raising of the ground levels around the trees, it may be that the best course of action would be to fell four trees in the interest of public safety.

***Noted.***

They have reservation regarding the soil within the proposed site. They would recommend soil samples are taken from the areas where the replacement trees are to be planted. The samples should be analysed for soil pH and what nutrients are available. This should be carried out by independent assessors (e.g The Scottish Agricultural College, Auchincruive), after the site has all the building material and existing trees removed. They will be able to recommend replacement trees once they see the results.

***A condition could be attached to any planning consent, requiring the above.***

3.8 Historic Scotland advise that the site under consideration is within the Inventory

Landscape of Dumfries House, and could potentially affect it. In considering the application they note that the house is to match those on the existing development and that the curtilage boundary will be aligned with that of the housing to its north. They have no further comments to make, as it will not seriously affect the designed landscape.

***Noted.***

3.9 Scottish Natural Heritage advise that the proposed development may fall on or within the boundary of the Dumfries House Historic Garden and Designed landscape as shown in "An Inventory of Gardens and Designed Landscapes in Scotland". However, if this is the case, the development site is clearly highly marginal to the Historic Garden and Designed Landscape and is unlikely to contribute significantly to its character. Furthermore, the proposed building appears to sit comfortably with the existing housing. In conclusion, SNH therefore does not object to the development being carried out strictly in accordance with the submitted plans. Any modifications or amendments that may affect the natural heritage of the site should be notified to Scottish Natural Heritage prior to acceptance of any variations.

**Noted.**

#### **4. REPRESENTATIONS**

One letter of representation has been received regarding the proposed dwellinghouses.

4.1 They chose their house because of its location in the street, with no houses to the other side, with good privacy (large stone wall).

***The 2 metre high stone wall along the boundary of the objectors' garden is to be retained. It is not considered that the proposal would have an adverse effect on the privacy currently enjoyed by the adjacent residents.***

4.2 The applicant would have to demolish part of their perimeter wall and take away some of their land in order to gain access for the proposed development.

***The applicants' solicitor has advised that the area of ground referred to above (including the wall) is within the ownership of the applicant. This issue is a legal matter and is not a material consideration in determining the application.***

4.3 The area near to their house and land would be like a building site, with some amount of mess and noise.

***In terms of noise, condition could be attached to any planning consent restricting the hours of working to day shift.***

4.4 They require quick access from their property to Cumnock Fire Station, as they are on call 24 hours as a fire fighter for Strathclyde Fire Brigade. There is concern that their access would be blocked with vans, lorries, deliveries etc.

***The applicant has advised that the main site access will not be from Harperbank Grove. A condition could however be attached to any planning consent requiring the loading and unloading of vehicles during the construction period, to take place within the site.***

#### **5. DEVELOPMENT PLAN STATUS**

5.1 The relevant policy document is the East Ayrshire Local Plan, Finalised Version. The application site lies within the rural area and is covered by residential and environment policies.

Environment Policy ENV 5 states that the Council will seek to protect, preserve and enhance Historic Gardens and Designed Landscapes. In instances where a proposed development affects an Historic Garden or Designed Landscape which is included in the Inventory of Historic Gardens and designed Landscapes in Scotland a landscape management plan will require to be submitted as an integral part of any application submitted to the Council for consideration.

***The site lies on the very edge of the Designed Landscape of Dumfries House. Although the proposal for the dwellinghouses includes a formation of an opening in the existing stone wall, to provide an access, it is considered that that the proposal will not have an adverse effect on the designed landscape (a management plan is not therefore required). Furthermore, Historic Scotland and Scottish Natural Heritage have not objection to the proposal.***

5.2 Strategic Development Policy SD3 states that within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only where the development:

- (i) comprises an acceptable form of residential use as detailed in Policy RES13 of the local Plan; or
- (ii) can be fully justified in terms of site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community; or
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture or forestry.

***The development does not contribute to rural diversification and the applicant has not provided any site specific locational justification for the development. The proposal is therefore contrary to the provisions of this policy.***

5.3 Policy RES13 states that the Council will be supportive of residential development of single houses in the countryside where it can be demonstrated that the houses are required on a permanent basis:-

- (i) for an 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.

Developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council and will not receive Council support.

***The applicant has not provided any site specific locational justification for the development. The proposal is therefore contrary to the provisions of this policy. It is however considered that as the proposed development would form part of an existing residential development and therefore the proposal is acceptable. Furthermore the proposed development would not result in inappropriate sporadic development but would be a natural extension to the settlement of Cumnock.***

5.4 Landscape and Rural Environment Policy ENV15 states that the Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire. In particular the Council will protect those individual groups and areas of trees which contribute significantly to the landscape quality of both the built and rural environment, through the serving of Tree Preservation Orders.

***The trees contribute to the amenity of the area, and their proposed felling of the tree would conflict with the provisions of the above policy. It is considered however, that due to the poor condition of the trees, they present a danger to the general public (the applicant has submitted correspondence from a resident of Bankend Farm, concerning the safety of the trees). This is considered sufficient justification for their felling.***

## **6. OTHER PLANNING CONSIDERATIONS**

6.1 The Inventory of Gardens and Designed Landscapes in Scotland identifies Dumfries House as a designed landscape. The inventory states that the house commands a fine prospect to the north and is itself a feature in the designed landscape when viewed from the north side of the valley, and particularly from the original main approach road from Auchinleck. The policy woodlands are the most significant feature in the landscape when viewed from outside the park.

***See response to Paragraph 5.1***

## **7. LEGAL AND FINANCIAL IMPLICATIONS**

7.1 Under Section 165 of the Town and County Planning (Scotland) Act 1997, a Tree Preservation Order may make provision for the payment of compensation in respect of loss or damage caused or incurred in consequence of the refusal of any consent required under the Order, subject to such exceptions and conditions as may be specified in the Order. The exception to the compensation provision contained in Tree Preservation Order No. 1/1997 is that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent subject to conditions where it is certified that the refusal, or grant subject to conditions, is in the interests of good forestry, or, in the case of trees other than trees comprised in woodlands, that the trees have outstanding or special amenity value.

## **8. CONCLUSIONS**

8.1 In terms of the East Ayrshire Local Plan, Finalised Version, the proposal conflicts with the policy provisions contained therein as the urban boundary has been drawn tightly around the existing houses.

8.2 It is considered however that the proposed semi-detached dwelling would be an appropriate addition to the existing development at Harperbank Grove, and would not result in isolated/sporadic development in the countryside. Following advice from the Council's Outdoor Services Department, it is considered that the trees present a danger to the general public, and that this justifies their felling. This, taken with the close juxtaposition to the settlement boundary would result in an appropriate form of development.

8.3 In terms of the letter of objection, it is considered that the proposed development would not have a detrimental impact on the privacy of neighbouring dwellings. A condition could be attached to any planning consent controlling the hours of work during the construction period and requiring vehicles, during the construction period, to park within the site.

## **9. RECOMMENDATION**

**9.1 It is recommended that the applications be approved subject to the conditions on the attached sheet.**

Alan Neish  
Head of Planning and Building Control  
VE/JM

20 July 2000  
FV/AN

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letter of objection.
5. TPO No. 1 1997.
6. East Ayrshire Local Plan, Finalised Version.
7. Inventory of Gardens and Designed Landscapes in Scotland.

Any person wishing to inspect the background papers listed above should contact Miss Vivien Emery on 01563 555485.

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

**Implementation Officer : Pamela Clifford**

Application no: 00/0256/FL

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Location	Bankend Harperbank Grove, CUMNOCK KA18 1SD
Nature of Proposal:	Proposed erection of 1 no. semi-detached villa
Name and Address of Applicant:	Northkirk Ltd, 14 Walnut Road, KILMARNOCK KA1 2HF
Name and Address of Agent	Thomson McCrea 9 Old Bridge Street, AYR KA7 1QA

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DPO's Ref: [VIVIEN EMERY ]  
PPO's Ref; [ ]

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

- (1) Prior to works commencing on site, the developer shall submit to the Planning Authority for approval, samples of the external wall finish materials of the proposed dwellinghouses which shall match the external wall finishes of the existing dwellinghouses within the Harperbank Grove residential development.

REASON – In the interests of amenity.

- (2) Prior to works commencing on site, the developer shall submit to the Planning Authority for approval a sample of the roof finish material of the proposed dwellinghouses which shall match the roof finishes of the existing dwellinghouses within the Harperbank Grove residential development.

REASON – In the interests of amenity.

- (3) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order

or enactment replacing this), any garage associated with the proposed dwellinghouses shall be set back a minimum distance of 6 metres from the rear of the footway and shall be of permanent construction and finished in the same materials as the dwellinghouse to which it relates.

REASON – In the interests of visual amenity.

- (4) The existing wall along the southern and eastern boundaries of the site shall be retained intact and maintained thereafter to the satisfaction of the Planning Authority except insofar as to allow access to the site in accordance with the approved plans.

REASON – In the interests of visual amenity.

- (5) Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site.

REASON – In the interests of visual amenity

- (6) Notwithstanding the approved plans, the wall on either side of the proposed access shall be repaired to the satisfaction of the Planning Authority.

REASON – In the interests of amenity.

- (7) Any loading and unloading of vehicles which may be required in connection with the construction of the dwellinghouses shall take place within the curtilage of the site and at no times on the highway.

REASON – To safeguard the residential amenity of the area and in the interests of highway safety.

- (8) Before 0800 hours and after 1900 hours on Mondays to Fridays and before 0800 hours and after 1700 hours on Saturdays and at all times on Sundays, no construction works shall be carried out.

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

- (9) An access crossing to East Ayrshire Council's Roads and Transportation Division's standards shall be formed to access the site.

REASON – In the interests of road safety.

- (10) Prior to the occupation of the dwellinghouses, two car parking spaces shall be provided within the curtilage of each dwellinghouse.

REASON – In the interests of road safety.

- (11) Prior to the occupation of the dwellinghouses, the private driveways shall be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road.

REASON – In the interests of road safety.

- (12) Any gates shall open inwards, away from the public road.

REASON – In the interests of road safety.

- (13) No surface water shall be allowed to discharge onto the public road.

REASON – In the interests of road safety.

**NOTES.**

- (1) Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
- (2) The applicant shall make early contact with West of Scotland Water, 35 Glenburn Road, Prestwick to discuss the servicing of the site.

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VIEWING PLEASE CONTACT (01563) 555320.**

**AGENDA**