

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 09 AUGUST 2002**

**02/0293/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL  
PURPOSES AT FORMER GARAGE SITE/RAILWAY CUTTING,  
LOGANGATE TERRACE, LOGAN**

**APPLICATION BY MR J TRACEY**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for the development of land for residential purposes. An indicative layout highlights the position of two dwellinghouses within the site. Access would be taken from Logangate Terrace. No details of the type or design of the dwellinghouses have been submitted at this outline stage.

**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 is indicated at paragraph 5.2 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 in Section 6 of the report, there are material considerations relevant to this application. Whilst it is considered that greater weight should be attached to the policies of the EALP with which the proposed development is generally not in accordance, the other material considerations outlined in paragraph 6.5 are considered enough for an exception to be made in this instance.

3.2 In this case, no specific locational need has been proven by the applicant. The proposed development of the southernmost part of the site is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP. However, given that the larger part of the site is located within the settlement boundary of Logan and would be consistent with policies contained within the EALP, it is considered that an

exception to policy can be made. Furthermore, the development of the former garage site would result in an improvement in the general amenity of the area.

### **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 would not require to be referred to the Development Services Committee because this would not be a significant breach of 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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**APPLICATION BY MR J TRACEY**

**Report by the Head of Planning and Building Control**

**1. PURPOSE OF REPORT**

1.1 The purpose 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 proposed development is contrary to policy, is subject to an objection and is recommended for approval.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is located on the southern edge of Logan, north of the Glenmuir Road. The site extends to 0.243 acre and comprises a former Council garage site that consists of a rough hardstanding and a former railway line that is currently in an overgrown condition. The site is bounded by Logangate Terrace and dwellinghouses to the north, dwellinghouses to the west, agricultural land to the east and Glenmuir Road to the south. The area of the former garage centre site is presently in the ownership of the Council.

2.2 **Proposed Development:** Outline planning permission is sought for the development of land for residential purposes. An indicative layout highlights the position of two dwellinghouses within the site. Access would be taken from Logangate Terrace. No details of the type or design of the dwellinghouses have been submitted at this outline stage.

**3. CONSULTATIONS AND ISSUES RAISED**

3.1 Cumnock Landward and Lugar/Logan Community Council have not responded to the consultation letter at the time of writing.

***Noted.***

3.2 The Coal Authority and British Gas Transco have no adverse comments to make on the proposed development.

***Noted.***

3.3 Scottish Water advises that there is an existing public water main located in the street adjacent to the site that may be suitable to provide a supply to the proposed development. However, details of the highest water fitting related to ordnance datum and the proposed demands must be forwarded to Scottish Water in order that hydraulic testing can be carried out. Separate application will have to be made for the provision of site water mains, if required, and service connections. Consultation should be made with Developer Services regarding compliance with current bylaws and use of water for building purposes is advised. It is strongly recommended that a cold water storage system is provided, for each house or flat having an actual (not nominal) capacity of 200 litres. It is advisable that the applicant contact Developer Services to discuss the drainage strategy for the proposed development. It may not be possible for this site to drain to the existing sewerage system.

***The applicant had been advised of the comments of Scottish Water.***

3.4 Scottish Power indicates that the company would have no objection to the proposed development. However, the applicant must be advised that Scottish Power has apparatus within/adjacent to the site which may require alteration or protection, depending on the extent of the development. The cost of any such work will be fully rechargeable, as will the repair costs associated with any damage to this apparatus during development work.

***A note advising the applicant of the comments of Scottish Power can be attached to any planning consent granted for the proposed development.***

3.5 East Ayrshire Council Roads and Transportation Division has no objection to the proposed development subject to conditions. Access must be taken from Logangate Terrace and visibility splays of 2.5 metres by 20 metres will be required at the access crossing, with no object greater than 1 metre in height being allowed within these areas. The developer shall provide a 2 metre wide footway in Logangate Terrace across the frontage of the site, which should link to the existing footway. As part of this work the existing street lightning column will require to be replaced at the developers expense. Any existing public utility apparatus must be piped and protected beneath the proposed access. Conditions regarding parking, surfacing, position of gates and garages and surface drainage are also recommended.

***Conditions regarding the requirements of the Roads Division can be attached to any planning consent granted for the proposed development.***

3.6 East Ayrshire Council's Department of Homes and Technical Services has no objection to the proposed development.

**Noted.**

3.7 East Ayrshire Council 's Department of Community Services, Outdoor Access Unit indicates that they have been looking at opportunities in East Ayrshire to improve access for walkers, cyclists and horse riders. Former railway lines have the potential to become excellent routes for cyclists and walkers. This section of former railway line has been looked at to assess if it could be incorporated into a network of local routes that would be of benefit to the local community. Though no plans and proposals have been drawn up, the site of the above proposal could be the access point from the road to an off road route that could link to Glenmuir Water. It is desirable that cycle routes are at least two metres wide. A section of this width could be retained so that at a future date, a cycle path could be formed if the opportunity arose.

***It is acknowledged that the opportunity to provide new access routes for leisure purposes should be safeguarded where possible. In keeping with the Council's policies on new residential development and in the interests of minimising incursion into Rural Diversification Area (see section 6 below), the applicant's agent was requested to safeguard a 5 metre strip of the railway line and amended plans were submitted to provide for this.***

#### **4. REPRESENTATIONS**

4.1 One letter of representation has been received with regard to the proposed development. This is summarised as follows:

4.2 They object to the proposals on the basis that it would interfere with their outlook, could lower the value of their property and restrict their privacy.

***Whilst the views from the dwellings to the north will be affected, the right to a view is not a material consideration in the determination of this application, nor is the affect on property values. The proposed dwellings would be located on the other side of the Logangate Terrace from the objectors dwelling, and would not have a detriment impact upon their privacy.***

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

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 Cumnock and Auchinleck Local Plan, (1992). The Adopted Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against residential policies. The site is located within the settlement boundary of Logan, as defined by the Adopted Plan. Residential Policy RES15 states that the Council will pursue a policy aimed at retaining the character of existing residential area and will continue to improve the environmental quality of existing residential areas in its ownership.

***The proposed residential development of the site would be compatible with the residential character of the area.***

5.3 Policy RES16 of the Adopted Local Plan indicates that the Council will encourage the residential development of those gap sites or re-development sites considered appropriate for residential use, in preference to the development of greenfield sites.

***The development of the gap site would comply with the policy provisions of the Adopted Plan.***

## **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) (2001), the planning history of the site, representations received and consultation responses.

### 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) (EALP) should be considered as a prime material consideration. Part of the site lies within the settlement boundary of Logan, as defined by the EALP, whilst the other part of the site lies within the Rural Diversification Area. The site is affected by Residential and Tourism, Leisure and Recreation policies.

6.3 The former railway line is located outwith the settlement boundary of Logan and is affected by Policy RES14. Policy RES14 states that the Council will be supportive of small scale residential developments within the Identified Rural Diversification area, where: -

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES 13; or
- (ii) the proposed development would constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary. Any proposed expansion of such a housing group will be limited to 50% of the total number of dwellings existing in that grouping as of 1 January 1999, up to a maximum of 4 new housing units, subject to the provision of Policies RES 15 and 16.

- Any development would require to be appropriate in terms of design, to the particular location in which it is proposed, be sensitive to the design and layout of the existing settlement or group of buildings and meet the standards required by all relevant public and statutory service providers. The sensitive infilling of any available gap sites consolidating existing dwellings within the group will be particularly encouraged in preference to any linear expansion of the grouping of houses concerned; or
- (iii) the proposed development constitutes very low density housing development, forming part of an integrated group of properties with a dual residential and workplace function supporting the rural economy as detailed in Policy RES 17.

***The proposed development does not conform to criteria (ii) or (iii) of Policy RES14 and therefore it could be acceptable only if it meets the terms of Policy RES 13(I). This allows for housing where a justification exists in relation to agriculture, tourism, to provide on-site accommodation or as an enabling development for a larger property conversion project. The proposal cannot be justified on this basis and is therefore contrary to Policy RES 14. Notwithstanding this, it is considered that an exception to this policy is acceptable as the development would only encroach 10 metres into the Rural Diversification Area. Whilst the site boundary itself encroaches 15 metres into the Rural Diversification Area, the applicant's agent has been requested to identify a 5 metre wayleave which would remain undeveloped, thus resulting in less encroachment to the rural area and leaving an opportunity for the former railway line to be utilised as a footpath/cycle route in the future. It is considered that this relatively small encroachment into the countryside, which will result in the development of a brownfield site, is acceptable.***

6.4 The former garage site is located within the settlement boundary of Logan, as defined by the EALP, and is affected by Policy RES4. Policy RES4 states that within settlement boundaries, the Council will positively encourage the sympathetic residential development of gap, infill or other redevelopment sites not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against the following criteria:

- (i) Impact on the surrounding natural and built environment and adjacent uses;

***The residential development of the site would be compatible with adjoining residential uses and would not have a detrimental impact with the surrounding natural and built environment.***

- (ii) Transportation and Infrastructure implications;

**East Ayrshire Roads and Transportation Division and statutory consultees have no objection to the proposed development.**

- (iii) Compatibility with surrounding densities and housing types; and

**Details of the housing types have not been submitted at this outline stage. An indicative plan highlights the position of two dwellinghouses, both of which can be adequately accommodated within the site.**

- (iv) Compliance with the Council's Development Promotion and Design Guidance.

**The application cannot be assessed against the Council's Design Guidance at this outline stage.**

6.5 The site is also affected by Tourism, Leisure & Recreation Policy TLR7 that states that the Council will, through the "Paths for All Initiative" and in association with relevant bodies, landowners and tenants, seek to develop a definitive strategic and local footpath and cycleway networks. In particular, the Council will in association with neighbouring Local Authorities, relevant bodies and landowners encourage the creation and promotion of strategic long distance cycle routes and footpath links, connecting local routes and footpaths with the national cycle and footpath networks. Priority will be given to the development and promotion of new cycle routes and footpath links between settlements, especially where these utilise existing disused railway lines, forestry access roads, minor country roads etc.

**Following discussions with the Planning Division, the applicant's agent amended the plans to highlight a five metre wide wayleave for a future footpath. A condition can be attached to any planning consent, requiring this five metre wide wayleave to remain undeveloped.**

#### Planning History

6.6 The site formed part of a larger site in which planning permission was refused on 26 April 1990 for the formation of vehicular access to public road and use of land for disposal of non-toxic waste (Ref. No. CD/89/404)

#### Consultations Responses

6.7 No consultation responses have been received that would indicate that refusal of the application would be appropriate.

#### Representations

6.8 In terms of the letter of objections, although the plan outlining the position of the dwellings is indicative only, it is considered that two dwellings could be accommodated within the site without affecting the privacy currently

enjoyed by existing residents. Furthermore, a right to a view is not a material consideration in the determination of this application, nor is the affect on property values.

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

7.1 Financial and legal implications will arise for the Council in the sale of the part of the site in Council ownership to the applicant. Approval would not constitute a departure from an adopted or approved local plan requiring notification of the application to the Scottish Ministers.

## **8. CONCLUSIONS**

8.1 As is indicated at paragraph 5.2 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 in Section 6 of the report, there are material considerations relevant to this application. Whilst it is considered that greater weight should be attached to the policies of the EALP with which the proposed development is generally not in accordance, the other material considerations outlined in paragraph 6.5 are considered enough for an exception to be made in this instance.

8.2 In this case, no specific locational need has been proven by the applicant. The proposed development of the southernmost part of the site is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP. However, given that the larger part of the site is located within the settlement boundary of Logan and would be consistent with policies contained within the EALP, it is considered that an exception to policy can be made. Furthermore, the development of the former garage site would result in an improvement in the general amenity of the area.

## **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 would not require to be referred to the Development Services Committee because this would not be a significant breach of Council policy.

Alan Neish  
Head of Planning and Building Control  
24 June 2002  
VE/VE  
FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letter of Representation
5. Adopted Cumnock and Auchinleck Local Plan (1992).
6. Approved Ayrshire Joint Structure Plan (1999).
7. East Ayrshire Local Plan, Finalised Version with Modifications (2001).
8. Approved Strathclyde Structure Plan (1984)
9. Planning Ref. CD/89/404

Any person wishing to inspect the background papers listed above should contact Mr. Hugh Melvin on 01563 555481.

**Implementation Officer: Dave Morris**

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 02/0293/OL

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Location	Former Garage Site/Railway Cutting, Logangate Terrace, Logan
Nature of Proposal:	Development of land for residential purposes
Name and Address of Applicant:	Mr J Tracy c/o Agent
Name and Address of Agent:	B.Line Design 25 Wilson Avenue KILMARNOCK KA3 7AP

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DPO's Ref: [VE     ]  
PPO's Ref : [        ]

The above [FULL] application should be approved 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 undermentioned 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) Details of the access arrangements;
  - e) The provision for open space;
  - f) The provision for car parking;
  - g) The boundary walls/fences to be erected;
  - h) The landscaping of the site;
  - i) Finished site levels/floor levels.

REASON: The approval is in outline only.

2. The details to be submitted under Condition 1(d) and (f) shall allow for the following road alterations:-
  - (a) The formation of a 2 metre wide footway in Logangate Terrace across the frontage of the site.
  - (b) Visibility sightline splay areas of 2.5 metres by 20 metres to be formed and maintained at the access onto the public road with no obstruction greater than 1 metre allowed within these areas.
  - (c) Access to the site shall be taken from Logangate Terrace.
  - (d) The first two metres of the driveway to be surfaced.

(f) Any existing public utility apparatus to be piped and protected beneath the proposed access.

REASON: In the interests of road safety.

3. The details to be submitted under Condition 1(b) shall allow for the erection of no more than two dwellinghouses, of either single or one and half storey construction.

REASON: In the interests of visual amenity.

4. Notwithstanding the approved plans, the area outlined in green on the approved plans shall not form part of the curtilage of the proposed dwellings and shall be left free from development to allow for a possible future footpath.

REASON: To maintain and secure improved access to the countryside.

➤ **NOTES TO APPLICANT**

1. The applicant shall make early contact with Scottish Water, 35 Glenburn Road, Prestwick to discuss the servicing of the site. Details of the drainage strategy and of the highest water fitting relative to ordnance datum will require to be submitted.
2. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.
3. The applicant shall make early contact with the Roads and Transportation Division with regards to the requirement of Construction Consent, a Road Opening Permit and Road Bond.

**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.**

**AGENDA**