

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 12 DECEMBER 2003**

**03/0531/FL: PROPOSED ERECTION OF 1 NO. DWELLINGHOUSE AT  
SINCLAIRSTON ESTATE, SINCLAIRSTON**

**APPLICATION BY MS MAUREEN MCDUGALL**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 It is proposed to erect a single storey dwelling on an "L" shape floor plan. It is of modest proportions and the fenestration does display a vertical emphasis. It is proposed to clad the external walls in a self coloured white wet cast render with black Marley Monarch tiles for the roof. Woodgrain uPVC windows of a sash and case appearance are proposed.

**2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons listed on the attached sheet.**

**3. CONCLUSIONS**

3.1 As indicated in section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, and it is considered that the third party letters of representation raise issues which are of sufficient weight to indicate that the application should be refused.

3.2 The site in question is located within the settlement envelope. The designation of the site under a Tree Preservation Order, as well as it partially falling within the Ancient Woodland, does require that a detailed survey of the trees is undertaken. However, the developer has not submitted this report and hence it has not been demonstrated that the development can take place without significant detriment to the integrity of this designation.

3.3 In addition to this the developer has not confirmed whether or not the visibility splays can be achieved and, as this involves land not marked under the ownership of the applicant, it has not been demonstrated that this can be achieved. It is considered that there is a lack of sufficient information to consider that the development is compliant with the relevant development plan policy and the recommendation must therefore be one of refusal.

### **CONTRARY DECISION NOTE**

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 because it is not considered to be a significant departure from the 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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03/0531/FL: PROPOSED ERECTION OF 1 NO. DWELLINGHOUSE AT  
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APPLICATION BY MS MAUREEN MCDOUGALL

### 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 proposal is subject to objections and is recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The site is situated on the south side of the public road in the hamlet of Sinclairston and is at present a heavily wooded area, some of which trees are fine mature specimens. The ground rises slightly to the rear where it adjoins a residential property known as "Kyle". There are no other particularly significant features on the site. The site falls partially within an area of Ancient Woodland and is covered by the recently confirmed Sinclairston Tree Preservation Order.

2.2 To the southeast is a brownfield site that was previously occupied by the Forestry Commission's offices. Opposite the site is a traditional two storey (dormer) dwelling constructed of ashlar sandstone and with a slate clad roof. The property immediately north of the site is a new but traditionally styled single storey dwelling finished in a grey wet render with a good slate look alike roof.

2.3 **Proposed Development:** It is proposed to erect a single storey dwelling on an "L" shape floor plan. It is of modest proportions and the fenestration does display a vertical emphasis. It is proposed to clad the external walls in a self coloured white wet cast render with black Marley Monarch tiles for the roof. Woodgrain uPVC windows of a sash and case appearance are proposed.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Power Systems has no objection to the proposed development.

***Noted.***

3.2 The Coal Authority has no adverse comments to make.

***Noted.***

3.3 The Scottish Environment Protection Agency has no objection to the proposed development subject to the drainage arrangements being to their satisfaction. In this regard the drainage must discharge to a blind soakaway. The applicant must therefore demonstrate a viable means of effluent disposal before planning permission is granted.

***The developer has submitted information in relation to septic tanks and SUDS but has not sufficiently addressed the matter of drainage. However, this could be the subject of a suspensive condition if the Committee is minded to approve the application.***

3.4 East Ayrshire Roads and Transportation Division has no objection to the proposed development subject to the following conditions:

- (i) a 2m footway across the frontage of the plot to East Ayrshire Council standards which will require Construction Consent.
- (ii) junction visibilities of 2.5m by 90m are required at the junction between the driveway and the B7046 and no obstruction greater than one metre in height is to be allowed within these areas
- (iii) access to the site must be taken via a standard driveway access crossing to East Ayrshire Roads standards
- (iv) the applicant to provide off road parking for a minimum of 3 cars and incorporate a turning area within the site
- (v) no surface water to be allowed to discharge onto the public road
- (vi) any garages must be set back a minimum distance of 6m from the rear of the footway
- (vii) the private driveway will require to be paved for a minimum distance of 2m from the rear of the footway
- (viii) any gates will require to open inwards

***The developer has been advised of these requirements but has not confirmed if they can be achieved on land within the applicant's control.***

3.5 Scottish Water has advised there is an existing water main located in the street adjacent but there are no known sewers to which a connection may be made.

***Noted.***

3.6 Drongan, Rankinston and Stair Community Council has not responded to the consultation letter at the time of writing this report.

***Noted.***

#### **4. REPRESENTATIONS**

4.1 This planning application has attracted five letters of objection. The main points of objection are summarised as follows:

4.2 Most of the letters have stated a concern that neighbour notification procedures had not been followed correctly. In addition to this there was significant doubt raised regarding the ownership of the whole site.

***Both of these matters were raised with the agent on behalf of the applicant and the responses given were:***

- (i) the second plot is to be purchased on planning permission being granted***
- (ii) notification has been presented twice for both plots to all neighbours***

***It is the ownership of the application site under consideration that required clarification rather than the second plot (former Forestry Commission office site). The objectors have advised that the date stated on the certificate of neighbour notification is not when the notification was served. However, the purpose of the neighbour notification procedure is to make people aware of the proposed development in order that they have the opportunity to make representations. It is evident that this opportunity has been afforded to appropriate residents in Sinclirston and therefore their third party rights as potential objectors have not been prejudiced. The matter of ownership is a legal one and the certificates are accepted by the Planning Division in good faith. It is therefore not considered that these matters indicate the application should be refused.***

4.3 The site is an area of ancient natural broadleaf woodland within the settlement boundary which makes a significant contribution to the character of Sinclirston, and provides a natural habitat for wildlife including bats, birds,

squirrels, hedgehogs etc. and the occasional owl which can be heard in the evenings and at night. It is also part of a mature shelter belt.

***The site is indeed an Ancient Woodland site and is now also covered by a Tree Preservation Order. Both of these designations reflect the significance of the woodland and habitat and it is therefore considered that the concerns raised are indeed material to the determination of this planning application.***

4.4 The site is not a gap, infill or other redevelopment site under Policy RES4. The proposed development would result in the loss of the area of broadleaf natural woodland, which would have a direct impact on the natural environment, in addition to the impact on the “surrounding” natural environment.

***The development does not constitute development on a brownfield site and nor can it be described as a gap or infill site. This has been raised by the writer in objection to the development and is material to the consideration of the proposal.***

4.5 The proposed development would be contrary to Policy RES17 (iii) which states that residential development in the countryside will not be permitted where the development would result in the loss of “...areas of ancient or semi-natural woodland, mature shelter belts or the loss of mature trees.”

***Albeit Sinclairston is a rural hamlet the site in question is not in the countryside and therefore this policy is not applicable.***

4.6 The proposed development would be contrary to Policy ENV15, which states that the Council will actively seek to preserve existing broadleaf and native species throughout East Ayrshire.

***This policy is applicable to the proposed development and is indeed a material planning consideration in the determination of the application.***

4.7 It has been suggested by the planning department that it might be possible to carry out the development and retain existing trees within the site. At the date the objector viewed the application, an accurate site survey and proposed services drawings had not been submitted with the application.

***At the time of writing this report the developer had not yet submitted a Tree Survey report as requested. The lack of this requested information is material to the consideration of the application.***

4.8 There is an existing 15” diameter water main in the site parallel to the southeast boundary. Scottish Water requires that foundations should not be

placed within 3 metres plus depth of a water main. This will affect the positioning of the dwelling on the site. If the minimum distance required around a tree in accordance with BS5837 is also taken into consideration, then the objector believes that it would be very difficult to carry out the development and retain the significant trees within the site, and that this could not be realistically achieved.

***If there are water mains within the site this is a matter for the developer to take account of when doing a site survey and prepare the site layout accordingly. As stated above the developer has not submitted any information regarding the trees on the site and it is therefore not possible to assess whether or not the development will impact upon the more significant specimens on the site.***

4.9 SEPA has refused consent in the last 7 years to discharge septic tank effluent to the watercourse at the junction with Muirston Farm Road, due to there being insufficient dilution, and a soakaway/infiltration system is unlikely to be suitable due to the clay soil type locally.

***SEPA has advised that the developer should demonstrate a satisfactory means of disposal prior to any planning permission being granted. Drainage from the site is a material planning consideration and it is not considered that the developer has sufficiently addressed the matter. However, it is not considered that this issue would justify refusal of the application but rather that it could be the subject of a suspensive condition if the Committee is minded to approve the application.***

4.10 With the local drainage difficulties in mind, it should be noted that this applicant has made a planning application for a new dwelling of similar size on adjacent land at the site of the former forestry office.

***There is a further proposal to erect another dwellinghouse on the former Forestry Commission site. However, the two applications have been made separately and must be considered on their individual merits. The cumulative effect is indeed a consideration however SEPA has not objected to the development provided that the proposed means of drainage is demonstrated as being satisfactory.***

4.11 Planning Advice Note PAN 61, "Planning and Sustainable Urban Drainage systems", states at paragraph 20 that, "planners have a key role in implementing SUDS through the process of planning applications", and at paragraph 24 that, "by the stage of submitting to the planning authority a full or reserved matters application a detailed drainage design will be required." The writer suggests that if the drainage is a requirement of East Ayrshire Council Building Control, then it would be prudent to ensure that a suitable SUD system can be achieved on this

site before planning permission approval, and that this should therefore be considered at the planning application stage, in accordance with PAN 61.

***The details relating to the proposed method of SUDS have not been submitted as requested and in accordance with PAN 61. However, it is not always the case that for a single dwellinghouse the full drainage specification must be detailed prior to the determination of the planning application. It is therefore considered acceptable in many cases to impose a suspensive condition regarding SUDS on any consent and hence this is not an issue which alone would be of sufficient weight to merit a recommendation of refusal.***

4.12 The former St Clare's Primary School is identified in the Local Plan as having development opportunity. Given the potential for housing on this site, and the separate application by the applicant for a new dwellinghouse on the adjacent land at the former forestry office, it is the objector's opinion that there are more than adequate potential development sites for new housing within Sinclairston and there is no need to destroy an area of natural woodland which contributes to the character of Sinclairston for construction of another new dwellinghouse.

***Albeit there is another site within the settlement which has been identified as a development opportunity this does not automatically preclude the development of other sites within the settlement. This is particularly so when the current application is for a single unit only. Each application is considered on its own merits and therefore the fact that there are other development sites within the settlement does not in itself justify a recommendation of refusal.***

4.13 The distance between the side of the house and the east boundary is noted as 1300mm. This is not in accordance with planning design guidance 12(a), which requires a minimum distance of 1500mm (1.5m).

***As measured on the site plan the nearest point of the dwelling to the boundary does achieve a distance of 1.5m and is therefore in accordance with the Council's Design Guidance on new residential development.***

4.14 If the area of land not in the ownership of the applicant is excluded, and assuming the applicant is not able to purchase this land, then the proposals do not comply with the private open space standards required by clause 6.22 of the Finalised East Ayrshire Local Plan dated December 1999.

***As illustrated on the plans submitted there is approximately 120sqm of useable private garden space which does comply with the relevant policy. The plan shows a site which in terms of its area can***

***accommodate a house of the scale as proposed and it is therefore not considered that the issue of private garden space is one which would indicate the application should be refused.***

4.15 The septic tank belonging to Sinclairston House is located within the application site. The construction of the house shown on the drawings is over the line of the existing drainage between the house and the septic tank. The writer requests that the applicant is required to show this information on their drawings and to provide proposals for protecting and maintaining services. Any works to alter or divert the drainage between the house and the septic tank will be carried out by the applicant at their own costs and to the satisfaction of the writer and that this is a made a condition of any planning consent if granted.

***If planning permission is granted for the erection of a dwellinghouse on this site it will be the responsibility of the developer to ensure that the septic tank will indeed be protected. If there are any drains contained within the site which require protection from the works (if planning permission is granted) this is a matter which shall be addressed through the Building Control process. Albeit the site plan should ideally take account of any such features on the site the omission of the septic tank does not in itself merit the refusal of the application.***

4.16 The applicant has not submitted a planning design statement in accordance with Planning Advice Note PAN 67 to explain and illustrate the design principles and how they have been developed in response to the site and the wider area, including the affect of the proposed house on the existing properties surrounding the site.

***The application has been made for full planning permission and a complete design scheme with material specification has been submitted. It is not considered necessary to request a design statement for a single dwellinghouse and therefore its absence does not indicate that the application should be refused.***

## **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 East Ayrshire Local Plan (2003).

## Ayrshire Joint Structure Plan

5.2 There are no policies contained within the Structure Plan which are especially relevant to this application.

## East Ayrshire Local Plan (2003)

5.3 The site is located within the settlement boundary of Sinclairston therefore Policy RES4 applies. This states that the Council will encourage the sympathetic residential development of gap, infill or other redevelopment sites not specifically 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;
- (ii) transportation and infrastructure implications;
- (iii) compatibility with surrounding densities and housing types; and
- (iv) compliance with the Council's Development Promotion and Design Guidance

***The site is proposed for residential development in an area where the predominant land use is residential. The proposed design scheme is considered to be of appropriate scale and proportions in this location and the finishing materials are sympathetic to the neighbouring properties. The developer has been advised of the requirements in terms of road safety and it is not considered that the proposed development has particularly onerous implications for the infrastructure in the village. It is therefore considered that the proposal does comply with this policy.***

5.4 There are a number of mature broadleaf trees within the site and thus Policy ENV15 is of relevance. The policy states that the Council will actively seek to preserve and supplement existing broadleaf and native tree species throughout East Ayrshire.

***The site has recently been designated as worthy of protection by the confirmation of a Tree Preservation Order in addition to it comprising part of an Ancient Woodland area. The wooded area contains a variety of beech, oak, ash and Scots pine which contribute significantly to the rural nature of the community and the character and amenity of the village. A Tree Survey to BS5837 (1991) was requested on 11 August 2003 but despite subsequent reminders this information has not been submitted. In the absence of this information it is evident that the development would necessitate significant site clearance and it is considered that the loss of these***

*trees would be severely detrimental to the character and amenity of the village. The proposed development therefore does not comply with Policy ENV15.*

## **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 third party representations.

### Consultations Responses

6.2 None of the consultation responses received have indicated that the recommendation should be one of refusal subject to the imposition of appropriate conditions in any consent granted for the proposed development.

### Representations

6.3 Many of the concerns raised by third parties are indeed material planning considerations. With particular reference to the loss of the wooded area being detrimental to the character of the area this is considered to be of sufficient weight to indicate that the application should be refused.

## **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 indicated in section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application, and it is considered that the third party letters of representation raise issues which are of sufficient weight to indicate that the application should be refused.

8.2 The site in question is located within the settlement envelope. The designation of the site under a Tree Preservation Order, as well as it partially falling within the Ancient Woodland, does require that a detailed survey of the trees is undertaken. However, the developer has not submitted this report and

hence it has not been demonstrated that the development can take place without significant detriment to the integrity of this designation.

8.3 In addition to this the developer has not confirmed whether or not the visibility splays can be achieved and, as this involves land not marked under the ownership of the applicant, it has not been demonstrated that this can be achieved. It is considered that there is a lack of sufficient information to consider that the development is compliant with the relevant development plan policy and the recommendation must therefore be one of refusal.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons listed on the attached sheet.**

### **CONTRARY DECISION NOTE**

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 because it is not considered to be a significant departure from the policy.

**Alan Neish**  
**Head of Planning and Building Control**

NM/NM/SMB  
27 November 2003  
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).

7. East Ayrshire Council Design Guidance.

Anyone wishing to inspect the above background papers should contact Nicola Monroe on 01563 555485.

**Implementation Officer: Dave Morris**

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 03/0531/FL

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|                                |  |
|--------------------------------|--|
| Location                       | Sinclairston Estate<br>SINCLAIRSTON<br>KA18 2RT          |
| Nature of Proposal:            | Proposed erection of 1 no.dwellinghouse                  |
| Name and Address of Applicant: | Maureen McDougall<br>53 Rowan Crescent<br>AYR<br>KA7 3NA |
| Name and Address of Agent      | Mr James Reid<br>15c Lansdowne Road<br>AYR<br>KA8 8LS    |

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DPO's Ref: Nicola Monroe  
PPO's Ref: Hugh Melvin

The above **FULL** application should be refused for the following reasons:-

1. The proposed development would result in the loss of a number of broad leaf and native trees on a site which is afforded protection by a Tree Preservation Order. There is insufficient information to demonstrate if the development can take place without causing significant detriment to the character of the area. The loss of these trees would be contrary to Policy ENV15 of the East Ayrshire Local Plan. The provisions of this policy require the protection of individual, groups and areas of trees which contribute significantly to the landscape quality of both the built and rural environment.
2. The developer has failed to demonstrate that the required visibility splays and footway along the frontage of the site can be achieved in the interests of road safety and therefore the development is considered to be inappropriate on this site.

**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.**