

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 14 FEBRUARY 2003

**02/0918/OL: PROPOSED ERECTION OF A SINGLE DWELLINGHOUSE TO
REAR OF 22 MAUCHLINE ROAD, AUCHINLECK**

APPLICATION BY Mr. G. PARKER

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the erection of a single dwellinghouse on the application site. Although no details have been submitted of the proposed layout or design of the dwellinghouse, the applicant has indicated that the house would be of single storey construction.

1.2 Access to the proposed plot would be taken from Dalshalloch Road across the strip of open space that is in the ownership of the Council. There are a number of access drives which are presently afforded across this area of open space, allowing access to the rear curtilages of a number of properties located along Mauchline Road. An existing garage workshop would be demolished to accommodate the proposed dwellinghouse.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet

3. CONCLUSIONS

3.1 As is indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 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.

3.2 In this regard the proposal is considered to be contrary to the provisions of Policy RES5 of the EALP as it is considered that the proposal would adversely affect the general amenity of the area and the amenity of neighbouring properties.

3.3 The points of objection relating to impact on the privacy, amenity and enjoyment of the neighbouring properties are also considered to be of sufficient weight to justify refusal of the application.

CONTRARY DECISION NOTE

Should the Committee agree to grant the application 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 as such a decision would not represent a significant departure from the provisions of the East Ayrshire Local Plan, Finalised Version with Modifications.

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**02/0918/OL: PROPOSED ERECTION OF A SINGLE DWELLINGHOUSE TO
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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 a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to objections and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the north side of Mauchline Road in Auchinleck and lies some 140 metres north west of the junction of Mauchline Road with Sorn Road. The site comprises a substantial part of the rear garden area of the existing residential property at No. 22 Mauchline Road. The site extends to approximately 400 m². The application site is bounded to the south by the applicant's dwellinghouse, to the east and west by adjacent residential properties, and to the north by a strip of open space which runs adjacent to Dalshalloch Road which serves the new Auchinleck Primary School.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of a single dwellinghouse on the application site. Although no details have been submitted of the proposed layout or design of the dwellinghouse, the applicant has indicated that the house would be of single storey construction.

2.3 Access to the proposed plot would be taken from Dalshalloch Road across the strip of open space that is in the ownership of the Council. There are a number of access drives which are presently afforded across this area of open space, allowing access to the rear curtilages of a number of properties located along Mauchline Road. An existing garage workshop would be demolished to accommodate the proposed dwellinghouse.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Auchinleck Community Council has objected to the proposed development on the grounds that there is no access from the main road (Mauchline Road).

The applicant has indicated that access is to be taken from Dalshalloch Road to the rear of No. 22 Mauchline Road, thereby separating the existing access to his dwelling from the proposed plot.

3.2 The Coal Authority, Scottish Power, Transco and Scottish Water have no adverse comments to make on the proposed development.

Noted.

3.3 East Ayrshire Roads and Transportation Division has no objections to the proposed development subject to appropriate conditions regarding a footway crossing, visibility splay areas, the provision of a 2 metres wide footway along the frontage of the site, car parking provision, access gates and surfacing of the proposed driveway.

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

The Division states that the access to Auchinleck Primary School (Dalshalloch Road) is a public road and that while there may be concerns about a residential development taking access onto this road which currently only serves the school, the Roads Division could not object to a properly formed access/accesses onto a traffic calmed public road.

Noted.

4. REPRESENTATIONS

4.1 Three letters of representation, including the objection from Auchinleck Community Council detailed in section 3.1 above, have been received objecting to the proposed development. The points of objection are summarised as follows:

4.2 No other dwellings have been erected to the rear of Mauchline Road. To do so would disturb the visual perspective of the area.

It is considered that the erection of a dwellinghouse at this location would result in a detrimental impact in terms of visual amenity and would create a precedent for further similar developments along the rear curtilages in Mauchline Road.

4.3 Due to the slope of the land, a dwellinghouse built to the rear of 22 Mauchline Road will overlook the rear garden of No. 20 Mauchline Road. This garden has never been overlooked since the house was constructed and this would seriously impact on the garden's privacy, use and visual amenity.

It is agreed that the construction of a dwellinghouse on the application site would have a detrimental impact on the privacy, amenity and enjoyment of the objector's property.

4.4 The proposed development is likely to impact on the value of adjacent residential properties.

This is not a material consideration in the determination of this application.

4.5 The proposed dwellinghouse would be accessed from Dalshalloch Road and would result in increased traffic levels. There is currently a limited amount of traffic (and at limited times) on this road as it provides access to a nursing home and primary school. An increase in the volume of traffic may also impact on the safety of persons and children accessing/leaving the nursing home and school.

The Roads Division states that the access to Auchinleck Primary School (Dalshalloch Road) is a public road and that while there may be concerns about a residential development taking access onto this road which currently only serves the school, the Roads Division could not object to a properly formed access onto a traffic calmed public road from a safety point of view.

4.6 Mauchline Road is a residential area where all of the houses have large gardens to the rear of them. Such properties are sought after as these gardens provide a high degree of privacy and are places where residents can enjoy peace and tranquillity as they are not overlooked by the occupants of any houses. If permission was granted then we would be denied the pleasures our rear garden affords at present.

It is agreed that the construction of a dwellinghouse on the application site would have a detrimental impact on the privacy, amenity and enjoyment of the objector's property.

4.7 The proposed dwellinghouse would be built to a modern design and constructed in modern materials and having modern exterior finishes. Such a construction would be visually at odds with the houses it would be near.

The application is in outline only and no details of the design or finishes of the proposed dwellinghouse have been given at this stage. Should the principle of a dwellinghouse be established for this site, it is considered that appropriate conditions could be attached to any consent granted for the development to ensure that the design and use of finishing materials in the construction

of the dwelling are appropriate to its location and reflect the character of adjoining properties.

4.8 Access from Mauchline Road, due to its width is limited to pedestrian access only and there are no circumstances whereby that width can be increased.

Access to the proposed plot is to be taken from Dalshalloch Road, not from Mauchline Road.

4.9 At present, due entirely to goodwill on the part of East Ayrshire Council, the applicant enjoys access from Dalshalloch Road across Council owned land into the rear garden of his property. It may be that he is relying on such access being granted by the Council to any future occupier of the proposed dwellinghouse.

It is understood that the applicant has informal access across this area of Council owned land, although no formal rights of access are believed to have been granted in this case. However, this is a legal matter between the applicant and the Council and is not relevant to the planning merits of the proposed development.

4.10 The granting of this application would set an undesirable precedent which has undesirable consequences for the occupants of Mauchline Road.

The approval of this application would be a material consideration in the determination of similar developments. In that sense, a precedent would be established to the detriment of the amenity of the locality.

5. ASSESSMENT AGAINST THE 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 Cumnock and Auchinleck Local Plan (1992). The Adopted Plan was prepared within the context of the then approved Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, there are no specific policies relating to backland development. The proposed development can be assessed against Policy 15 which seeks to retain the character of residential areas.

The proposed development is, in itself, residential in nature and it can be argued that the residential character of the area will not be significantly altered. However, it is considered that the proposed development would be detrimental to the amenity of property owned

by the applicant and adjoining properties whose private garden areas would be immediately adjacent to the proposed dwelling. Nonetheless, it is considered that the proposed development does not conflict with the provisions of the development plan.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan, (Finalised Version with Modifications) 2002, (EALP), the consultation responses and the representations received.

East Ayrshire Local Plan (Finalised Version with Modifications)

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) 2002, (EALP), should be considered as a prime material consideration. The policy in the EALP relevant to this proposal is Policy RES5 in which the last paragraph states:

Backland development (i.e. the erection of any dwellinghouse situated to the rear of an existing building and/or without a proper road frontage) will not be permitted where, in the opinion of the Council, this would adversely affect the amenity of the area, the setting of either the proposed or the original building on the site, or the amenity of neighbouring properties.

The proposed development is considered to constitute backland development as the application site relates to the rear garden area of an existing dwellinghouse and the site has no proper road frontage either onto Mauchline Road or Dalshalloch Road. The erection of a dwellinghouse on this site would have a significant detrimental impact not only on the setting of the existing dwellinghouse to which the site relates, but also on the amenity, privacy and enjoyment of the residential properties immediately adjacent to the application site. The proposal is therefore considered to be contrary to the provisions of Policy RES5.

Consultation Replies

6.3 The consultation replies do not indicate that the application should be refused.

Representations

6.4 The terms of the letters of objection are detailed Section 4 above.

It is considered that many of the points of objection are valid and are material considerations in the determination of this

application. The points of objection relating to impact on the privacy, amenity and enjoyment of the neighbouring properties are considered to be of sufficient weight to justify refusal of the application.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. However, part of the application site is within the ownership of the Council and approval of this application may result in legal implications arising in terms of securing ownership of the land.

8. CONCLUSIONS

8.1 As is indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Sections 25 and 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.

8.2 In this regard the proposal is considered to be contrary to the provisions of Policy RES5 of the EALP as it is considered that the proposal would adversely affect the general amenity of the area and the amenity of neighbouring properties.

8.3 The points of objection relating to impact on the privacy, amenity and enjoyment of the neighbouring properties are also considered to be of sufficient weight to justify refusal of the application.

9. RECOMMENDATIONS

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

CONTRARY DECISION NOTE

Should the Committee agree to grant the application 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 as such a decision would not represent a significant departure from the provisions of the East Ayrshire Local Plan, Finalised Version with Modifications.

Alan Neish
Head of Planning and Building Control
03 February 2003
HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Letters 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 (2002).
8. Approved Strathclyde Structure Plan.

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

Implementation Officer: Dave Morris

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