

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 17 JANUARY 2003

02/0852/OL: PROPOSED DEVELOPMENT OF LAND FOR RESIDENTIAL PURPOSES FOR THE ERECTION OF THREE DWELLINGHOUSES AT LAND AT SKARES, BY CUMNOCK

APPLICATION BY MR T HEWITSON

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the erection of three dwellinghouses within the site. The proposed dwellings would take access off the existing Hindsward access road which is effectively a single width private access. No proposed layout or elevational details of the proposed dwellinghouses have been provided at this outline stage although the applicant has stated that two of the proposed dwellings would be of single storey construction and the third dwelling would be of one and a half storey construction.

1.2 In support of the application the applicant has advised that he and his family currently reside in the existing three residential units located at the Hindsward farm steading. The applicant has agreed to sell the existing dwellings to the operator of the Skares Road opencast site in order to facilitate mining proposals. The current application is for consent to replace the three houses that would be lost as a result of the opencast operations. The new dwellings would be adjacent to the village of Skares and as part of the proposal the applicant would undertake to surface the track from the end of the public maintained road from George Terrace to the new properties, a distance of over 200 metres.

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 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 at Section 6 of the report, there are

material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan and it is further considered that the material considerations support refusal of the application.

3.2 The proposal would result in development that would constitute an inappropriate extension of development into the countryside with no locational justification within the rural area and is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP.

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 would require to be referred to the Development Services Committee as it would be a significant departure from the East Ayrshire Local Plan.

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 T HEWITSON

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination and outline 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, subject to an objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the edge of Skares village, some 300 metres south of the junction of the B7046 Skares Road with George Terrace along the access road leading to Hindsward farm steading. The site extends to approximately 4100 m² and is located within the north west corner of an agricultural field in pastoral use. The site is bounded to the south and east by this field, to the west by the Hindsward access road and agricultural land, and to the Whitesmuir steading.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of three dwellinghouses within the site. The proposed dwellings would take access off the existing Hindsward access road which is effectively a single width private access. No proposed layout or elevational details of the proposed dwellinghouses have been provided at this outline stage although the applicant has stated that two of the proposed dwellings would be of single storey construction and the third dwelling would be of one and a half storey construction.

2.3 In support of the application the applicant has advised that he and his family currently reside in the existing three residential units located at the Hindsward farm steading. The applicant has agreed to sell the existing dwellings to the operator of the Skares Road opencast site in order to facilitate mining proposals. The current application is for consent to replace the three houses that would be lost as a result of the opencast operations. The new dwellings would be adjacent to the village of Skares and as part of the proposal the applicant would undertake to surface the track from the end

of the public maintained road from George Terrace to the new properties, a distance of over 200 metres.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Ochiltree Community Council has indicated that it would have no objections to the outline application providing that the application meets a site specific need or provides for the operational needs of agriculture or forestry in terms of the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan.

As the proposed development does not meet the needs of agriculture or forestry, and is considered to be contrary to the provisions of the East Ayrshire Local Plan (Finalised Version with Modifications 2002) as described in Section 6 of this report, it is assumed the Community Council objects to the proposal.

3.2 The Coal Authority has no adverse comments to make on the proposed development.

Noted.

3.3 East Ayrshire Council, Roads and Transportation Division has advised that the site is a greenfield site served by a private access road from the end of George Terrace and therefore, for the number of dwellings proposed, East Ayrshire Council policy would require the access road to be upgraded to the standards of an adoptable rural single track road with passing places and a turning head. The Division recommends any decision is deferred pending an agreement that the applicant is willing to undertake the work required at his expense which would consist of:

- (i) trimming back trees and bushes within the existing access road boundary;
- (ii) cleaning and repairing by patching all existing carriageway defects;
- (iii) regulating and overlaying the full length of the access road with a 50 mm wearing course;
- (iv) the provision of two passing places along the length of the access roads and a full standard turning area prior to the existing cattle grid (which would remain private); and
- (v) upgrading and provision of drainage and verges along the access road.

Unless the applicant is willing to upgrade the road to an adoptable public road standard which will require Construction Consent specifying the full standards required, then refusal of the application as it stands is recommended.

The requirements of the Roads Division would require to be secured through a Section 75 Agreement in any planning consent granted for the proposed development. It should be noted that the existing access road currently serves the three existing dwellings at the Hindsward steading and that in the event that these

dwellings are removed by potential opencast operations, the proposed development would not result in any increase in the number of dwellings served by this access road. Nonetheless, the proposed development requires to be assessed against current policy that requires new developments of three dwellings or more to be served by an access upgraded to appropriate standards. The applicant has indicated a willingness to upgrade the access road as part of the proposed development.

3.4 The Scottish Environment Protection Agency has no objections in principle to the proposals provided the drainage arrangements are to their satisfaction. In this regard all foul drainage from the development should be connected to the foul sewer to the satisfaction of Scottish Water and not to a septic tank as proposed by the applicant. The applicant should consider the use of porous paving for car parking areas and infiltration trenches/French drains for roof water.

Noted.

3.5 Scottish Water advises that there are no known sewers to which a connection can be made. Drainage will require to be treated by septic tank or other suitable treatment system to the satisfaction of SEPA. If a septic tank is utilised it must be sited in such a manner as to allow easy access for emptying by tanker. Contact should be made with this office to discuss how the proposed development would be best served with a public water supply. Scottish Water further advises that there is an existing water main located in the street adjacent to the site which 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.

A note can be attached to any consent granted for the proposed development to meet the requirements of Scottish Water.

4. REPRESENTATIONS

4.1 Ochiltree Community Council has objected to the proposal as indicated in section 3.1 above. No other third party representations have been received.

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 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, the proposal would fall to be considered against relevant residential policies. The application site is located outwith the settlement boundary of Skares and is affected by Policy 17 which states that the Council will presume in favour of single, small scale, especially high amenity residential development in the countryside except in certain stated circumstances.

It is considered that the erection of three dwellinghouse within this area would not conflict with the provisions of Policy 17.

5.3 Policy G6 of the Ayrshire Joint Structure Plan states that development proposals in the Rural Diversification Area shall normally be limited to the use of land within settlements. Outside settlements development proposals shall conform to the structure plan where the development:

- (i) comprises an acceptable form of residential use as defined by the local plan
- (ii) provides for sensitive industrial, business, recreational or tourism development with a site specific locational need;
- (iii) can be fully justified in terms of social and economic benefit to the community;
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture and forestry.

It is considered that the proposed development does not fall within any of the criteria stated above and consequently the proposal does not conform to Structure Plan Policy G6.

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) 2002, the consultation responses, and the representations received.

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) 2002, (EALP), should be considered as a prime material consideration. The site lies within the Rural Protection Area, as defined by the EALP, and is affected by Strategic and Residential Policies.

6.3 Strategic Development Policy SD4 states that within the Rural Diversification Area, development proposals relating to land 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 RES14 of the Local Plan; or
- (ii) provides for sensitive industrial, business, recreational or tourism development with a site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community.

6.4 Policy RES 14 states that the Council will be supportive of small scale residential development 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 i.e.
 - (a) for an agricultural or forestry worker employed directly on the land to which the proposed house relates;
 - (b) 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;
 - (c) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
 - (d) 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 will not receive Council support.

The applicant has not provided any site specific locational justification for the development. Although the applicant has stated that the proposed dwellings are required to replace the three existing dwellings at Hindsward which may be lost as a result of opencast coal mining, this is not considered to be appropriate justification for the proposed development in terms of the stated criteria. In agreeing to sell the current accommodation, the applicant has chosen to place his family on the market for new premises. The suitability of new premises must be assessed through the planning process and the proposal does not fall within any of the categories of acceptable development listed in Policy 13.

- (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.

The proposed development would not constitute a limited addition to an existing group of four or more houses.

(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 i.e. lowland crofting development.

The proposed development is exclusively residential in nature and does not constitute lowland crofting development.

The proposed development is therefore considered to be contrary to Policy RES 14.

Consultation Responses

6.5 The consultation responses, in terms of site infrastructure, do not indicate that the application should be refused.

Representations

6.6 It is acknowledged that the proposal is contrary to policies contained within the EALP.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications would arise through the securing of a Section 75 Agreement to ensure that the existing access road is brought up to an appropriate standard to meet the requirements of the Roads and Transportation Division, should the application be approved.

Noted.

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 at Section 6 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan and it is further considered that the material considerations support refusal of the application.

8.2 The proposal would result in development that would constitute an inappropriate extension of development into the countryside with no locational justification within the rural area and is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP.

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 would require to be referred to the Development Services Committee as it would be a significant departure from the East Ayrshire Local Plan.

Alan Neish
Head of Planning and Building Control

28 December 2002
HM/HM/SMB
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory notices/certificates.
3. Consultation responses.
4. Adopted Cumnock and Auchinleck Local Plan (1992)
5. Approved Ayrshire Joint Structure Plan (1999).
6. East Ayrshire Local Plan Finalised Version with Modifications (2002).
7. 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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TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 02/0852/OL

Location	Land at Skares, by CUMNOCK KA18 2RF
Nature of Proposal:	Proposed development of land for residential purposes for the erection of three dwellinghouses.
Name and Address of Applicant:	Mr T Hewitson Hindsward Farm Skares KA18 2RF
Name and Address of Agent	

DPO's Ref: [Hugh Melvin]
PPO's Ref: []

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

1. The proposed development would constitute the erection of three new dwellings in the countryside without a site specific locational need and would therefore be contrary to Policies SD4 and RES14 of the East Ayrshire Local Plan, Finalised Version with Modifications 2002.
2. The proposed development would constitute the erection of three new dwellings in the countryside without a site specific locational need and would therefore be contrary to Policy G6 of the Approved Ayrshire Joint Structure Plan 1999.

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