

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 30 JANUARY 2004

**03/0839/FL: PROPOSED DEMOLITION OF EXISTING CHALET AND
ERECTION OF NEW DWELLINGHOUSE AT SINCLAIRSTON HOUSE,
SINCLAIRSTON**

APPLICATION BY MS MAUREEN MCDOUGALL

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full permission is sought 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 for the dwellinghouse.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

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 these also indicate the application should be refused.

3.2 The proposal is to erect a single storey dwellinghouse on a brownfield site within the settlement envelope of Sinclairston. The principal of the proposed development is therefore considered to be acceptable however this is subject to meeting all of the other relevant policies.

3.3 The site comprises a wooded area of trees which are designated under a Tree Preservation Order and therefore a detailed survey of the trees requires to be undertaken for any development which may affect them. 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 the designation.

3.4 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 is therefore 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 require to be referred to the Development Services Committee because it would represent a significant departure from the development 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 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 brownfield site. The site previously comprised a single storey chalet building which was occupied by the Forestry Commission.

2.2 The site is level and has significant tree cover around its periphery. There is a group of beech and Scots Pine trees in the northern part of the site which are protected under the recently designated Sinclairston Tree Preservation Order. There is also a container on the south side of the site which has been there for approximately fifteen years.

2.3 The site fronts onto the public road and there is an access road to the rear. It is proposed to share this access with the property known as "Kyle" which sits immediately east of the site. To the west across the access point there is another residential property known as "Pineview". The settlement comprises mainly of traditional and traditionally styled houses, the majority of which are single storey and using sympathetic materials.

2.4 **Proposed Development:** Full permission is sought 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 for the dwellinghouse.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Coal Authority has no objection to the proposed development and has no adverse comments to make.

Noted.

3.2 The Scottish Environment Protection Agency has no objection in principle to the proposed development provided that the drainage arrangements are to its satisfaction. In this regard they have recommended that the applicant demonstrates a viable means of effluent disposal prior to planning permission being granted. They have advised that surface water should be kept separate from the foul drainage.

Noted. A note could be attached to any consent granted regarding the comments of SEPA.

3.3 Scottish Power has no objection to the proposed development.

Noted.

3.4 Scottish Water has advised that there is water apparatus within the development site which may be affected by the application. There are no known sewers to which a connection may be made from the proposed development.

Noted. A note could be attached to any consent granted regarding the comments of Scottish Water.

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

- (i) the developer is required to provide a 2m footway across the B7046 frontage of the plot
- (ii) junction visibilities of 2.5m by 90m are required at the existing junction between the private driveway and the B7046
- (iii) the applicant must provide off road parking for a minimum of 3 cars
- (iv) no surface water must be allowed to discharge from the site

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

3.6 Glasgow Prestwick International Airport has no safeguarding issues to raise in respect of the proposed development.

Noted.

3.7 Drongan, Rankinston and Stair Community Council has been consulted but no response had been received at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 This application has attracted two third party letters of representation both from the same objectors. The main points of objections raised are summarised as follows.

4.2 The writer recently had a blockage in their waste pipe and having called in a specialist firm the problem was traced to the proposed site of the dwellinghouse through which the waste pipe runs to the septic tank. According to the plans a dwellinghouse would be built over some of the inspection hatches which would obviously cause a problem if another blockage were to occur. The writer's title deeds contain a Deed of Servitude to access and maintain the pipe and septic tank.

The applicant has certified being the sole owner of the site. Any disputes regarding how the development would affect existing private drainage arrangements for neighbouring properties is a civil legal matter and therefore is not a valid material consideration in the determination of this planning application.

4.3 The only access to the property is via an access which belongs to Sinclairston House, with shared access rights. The application should therefore include the access road within the proposed plan as it has a direct impact on the accessibility to this property and the proposed property. If this is the case, notification must be issued to the writers as owners of part of the development proposal area and request that notice is served correctly.

The application site as shown on the plans submitted does not include the shared access as described by the objector and therefore the owner of the access has not been notified. However the writer was notified as a neighbour and therefore the purpose of the notification procedures has been achieved. This is a private access and it is proposed to use this for the proposed dwellinghouse.

However, if the applicant intends to use this access and has not secured agreement from the landowner this remains a civil matter.

4.4 No access/parking arrangements for the new dwellinghouse are shown on the plan.

The proposed access is shown to be taken off the existing private access and as such the Council's Roads Division has advised that the junction at this access to the B7046 public road requires to be upgraded by forming visibility splays. The applicant has not demonstrated that this can be achieved hence in the interests of road safety this would indicate that the application should be refused.

4.5 The plot of ground, as shown in the plan attached to neighbour notification, seems to take in a piece of ground which was wooded until the previous owner cut down the trees without permission to make an illegal access to the plot. Currently no further application has been made to grant a permanent access. The writer advises that as far as they are aware a local farmer from Polquairn Farm, still owns this area of ground. The writer also advises that as far as they are aware a main water main runs along this line.

As previously mentioned the applicant has certified as being the sole owner of the application site. This has been raised with the agent who verbally confirmed that the certificates were correct. In any case the ownership remains a civil legal matter. Scottish Water has advised that there is water apparatus within the site which may be affected by the development and the developer has been advised of this.

4.6 The application also takes in another piece of ground belonging to Muirston Farm, which also has trees within it and the writer enquires as to whether or not these would require felling as the others have which are covered by the Tree Preservation Order.

It is evident that some of the trees have previously been felled. However at that time the Tree Preservation Order had not been imposed and therefore no planning contravention had taken place. There is now a Tree Preservation Order which does extend into the current application site and for this reason the developer was asked to undertake a Tree Survey. This information has not been provided to date, information which is considered to be material to the determination of this application.

4.7 The writer questions if the present septic tank can cope with two dwellinghouses, there is no allowance made for a soakaway or reed bed which

would be necessary as the burn is currently at maximum capacity according to SEPA's advice.

The applicant has proposed a septic tank for the foul drainage and SEPA has advised that planning permission should not be granted until such time as an appropriate method has been resolved. Should the Committee be minded to approve the application then a suspensive condition would be imposed on the consent to ensure that the drainage issue was resolved. This is also a matter which would require to be resolved prior to a Building Warrant being issued.

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.

Noted.

East Ayrshire Local Plan (2003)

5.3 Policy RES4 states that, within settlement boundaries, the Council will actively encourage the sympathetic residential development of gap, infill or redevelopment sites, including those sites created through the large scale demolition of existing housing, not specifically safeguarded or identified for particular development purposes on the Local Plan maps. Developments will be assessed against a set of four criteria, as follows :

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

A house at this location would not be detrimental to adjacent uses. However, there are some mature trees on the north, eastern and western boundaries of the site. The footprint of the house does not appear to affect any of the trees however the developer has failed to submit a Tree Survey report which would either confirm or discount

the potential impact on the trees within the development site. The erection of this house may have an impact on the root plate of the protected trees which would be detrimental and therefore it is not considered that this criterion has been met.

(ii) transportation and infrastructure implications;

The Roads and Transportation Division has advised of the requirements to be met in the interests of road safety. However the developer has failed to demonstrate that these can be met on the land within the applicant's control and therefore fails to meet this criterion.

(iii) compatibility with surrounding densities and housing types; and

The site can sufficiently accommodate one unit and therefore the density is acceptable. The proposed design scheme for the house is considered to be in keeping with neighbouring properties and therefore this criterion has been met.

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

It is considered that the proposed development does comply with the Council's Design Guidance.

5.4 Policy RES22 requires that all developers observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

The proposal does meet with the minimum private open space standards.

5.5 Under Policy ENV15 (ii) 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.

There are a number of trees located within the application site which are covered by the Tree Preservation Order. For this reason a Tree Survey, to BS5837 (1991), was requested but despite subsequent reminders this information has not been submitted. In the absence of this information it is not clear that the trees covered by the Order would be afforded the protection they require to avoid detriment to the area. 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 recommend that planning permission should be refused. However, the Roads and Transportation Division advised of no objection subject to the conditions as stated being met. The developer has not demonstrated that these conditions can be met and therefore this indicates that the application should indeed be refused.

Representations

6.3 The representations received do raise material planning considerations which form the basis of objections to the proposed development and these do 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 these also indicate the application should be refused.

8.2 The proposal is to erect a single storey dwellinghouse on a brownfield site within the settlement envelope of Sinclairston. The principal of the proposed development is therefore considered to be acceptable however this is subject to meeting all of the other relevant policies.

8.3 The site comprises a wooded area of trees which are designated under a Tree Preservation Order and therefore a detailed survey of the trees requires to be undertaken for any development which may affect them. 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 the designation.

8.4 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 is therefore 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 require to be referred to the Development Services Committee because it would represent a significant departure from the development plan.

Alan Neish
Head of Planning and Building Control

NM/NM/SMB
FV/AN
13 January 2004

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).

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: 03/0839/FL

Location	Sinclairston House SINCLAIRSTON KA18 2RT
Nature of Proposal:	Proposed demolition of existing chalet and erection of new dwellinghouse
Name and Address of Applicant:	Maureen McDougall 53 Rowan Crescent AYR
Name and Address of Agent	Mr James Reid 15C Lansdowne Road AYR KA8 8LS

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 affect trees 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.

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