

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 24 MAY 2001

**01/0139/FL: PROPOSED ERECTION OF DWELLINGHOUSE AT
MANSEFIELD, RIGG ROAD, CUMNOCK APPLICATION BY MR DUNCAN**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Detailed planning permission is sought for the erection of a single dwellinghouse on the site. The dwellinghouse would be single storey in construction with a double garage. The external walls of the proposed dwellinghouse would be finished in white roughcast with a reconstituted stone basecourse and stone quoins. It is proposed to finish the roof with red concrete tiles. The dwellinghouse would be 15 metres from the nearest dwellinghouses to the north and south of the site. Access is to be taken from an existing private track which leads southwards from Rigg Road and serves one existing dwelling.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5.2 in 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 in 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 not in accordance, the material considerations outlined in paragraphs 6.5 and 6.6 in the report are considered significant enough for an exception to EALP policies to be made in this instance.

3.2 In this case, the applicant has not proven any specific locational need for the proposed dwellinghouse. The proposal is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP. However, given that this is a brownfield site within an existing group of houses, it is considered that an exception to policy can be made.

3.3 In terms of the letters of objection, it is considered that the amenity and privacy of neighbouring properties will not be significantly affected by the proposed development. The concern raised regarding the siting of the house in relation to an existing septic tank is essentially a legal matter. The applicant has separate premises from which he currently operates his business. It is however accepted that the proposed development is contrary to the Council's Policies for Housing in the Countryside.

3.4 Given the site history and the location of the site, with dwellings immediately to the north and south, it is considered that should the Committee be minded to approve this application, it would not require to be referred to the Development Services Committee as the proposed development would be considered as a minor departure from 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.

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 24 MAY 2001

01/0139/FL: PROPOSED ERECTION OF DWELLINGHOUSE AT
MANSEFIELD, RIGG ROAD, CUMNOCK APPLICATION BY MR DUNCAN

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 proposed development is contrary to policies contained within the East Ayrshire Local Plan, (Finalised Version with Modifications) and is subject to objections.

2. APPLICATION DETAILS

2.1 The site lies 30 metres south of Rigg Road, Cumnock, approximately 200 metres eastwards of its junction with the Cumnock-Auchinleck road. The site extends to 0.1643 hectare and consists of a brownfield site located adjacent to an existing group of houses. The site is bounded to the north and south by existing houses and to the east and west by agricultural land. A number of mature trees are located along the eastern boundary of the application site that also provide partial screening of the site.

2.2 **Proposed Development:** Detailed planning permission is sought for the erection of a single dwellinghouse on the site. The dwellinghouse would be single storey in construction with a double garage. The external walls of the proposed dwellinghouse would be finished in white roughcast with a reconstituted stone basecourse and stone quoins. It is proposed to finish the roof with red concrete tiles. The dwellinghouse would be 15 metres from the nearest dwellinghouses to the north and south of the site. Access is to be taken from an existing private track which leads southwards from Rigg Road and serves one existing dwelling.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Auchinleck Community Council has no comment to make on the proposed development.

Noted.

3.2 East Ayrshire Roads and Transportation Division has no objection subject to conditions regarding parking and a turning area.

Conditions regarding the above can be attached to any planning consent granted for the proposed development.

3.3 The Scottish Environment Protection Agency advises that there are no objections in principle to the proposed development providing the drainage arrangements are to its satisfaction. In this regard the proposed septic tank and soakaway should be designed and constructed to meet with the requirement of its code of practice. This will require the applicant to carry out percolation tests on site to assess the suitability of the soil for effluent disposal. As there is some doubt that the ground conditions will prove favourable, planning permission should be delayed until the applicant demonstrates that there is indeed a viable method for septic tank effluent disposal at this location. Surface water should be kept separate from the foul drainage.

Following this advice from SEPA~ the applicant carried out percolation tests within the site. SEPA has subsequently confirmed that these results are acceptable and that it has no objection to the development.

3.4 Scottish Power and The Coal Authority have no adverse comments to make on the proposed development.

Noted.

3.5 West of Scotland Water Authority advises that the nearest public water main is in Rigg Road and contact should be made with them to discuss how a supply of water may be obtained. If a septic tank is utilised it must be sited in such a manner to allow easy access for emptying by tanker.

A note can be attached to any planning consent granted for the proposed development advising the applicant of the comments of West of Scotland Water. A condition can be attached to any consent granted with regard to the siting of the septic tank.

4. REPRESENTATIONS

4.1 Two letters of representation have been received objecting to the proposed development. These are summarised as follows:-

4.2 If the Council were to approve the application with the outline planning having lapsed by 9 years, that decision would be against its current local plans for this type of development, and would leave itself open to retrospective applications of the same kind in the future.

Outline planning permission was approved for a dwellinghouse on the site on 06 September 1989 (See Paragraph 6.6). No reserved matters/full application was submitted within the 3-year period, and this outline consent therefore expired on 06 September 1992. It is acknowledged that the current application is contrary to housing in the countryside policies contained within the East Ayrshire Local Plan, Finalised Version with Modifications (See Paragraphs 6.3 & 6.4)

4.3 The planned development, 4 metres from the objectors' boundary, would affect the light, views, privacy and values of their house, all of which are unacceptable.

Although the northern gable of the proposed dwellinghouse will be 4 metres from the boundary of the dwellings to the north, the houses themselves will be some 15 metres apart. It is therefore considered that there will be no significant loss of light to the existing dwellings. In terms of privacy, there would be no overlooking issues or window-to-window problems as the only window on the northern gable of the proposed house is a small bathroom window. Furthermore, an existing two metre high fence along the northern boundary provides screening of the rear garden areas of the existing houses. 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.

4.4 The development should comply with the Scottish Office Reporter's points regarding the siting, design and external appearance of the single storey dwelling. A high building line to the east of the plot for the dwelling and garage would complete the last piece to the hamlet development. In planning terms, it would be unacceptable to allow the last developer to spoil the existing views for all other occupiers, except himself .

The design, scale and use of finishing materials of the proposed dwelling are in keeping with the adjacent dwellings. It is also considered that its siting will not significantly affect the amenity of neighbouring properties. The right to a view is not a material consideration in the determination of the application and is not a valid ground of objection in planning terms.

4.5 One of the concerns of the three existing home-owners, when building their houses, was to ensure that the existing trees and hedgerows were preserved to promote privacy. The objectors recommend a condition imposing height restrictions of new boundary fences and hedges to a maximum of 6 feet. This will protect the existing views of the countryside that are an asset to the existing houses.

Planning permission would be required for the erection of any fence over 2 metres in height. It is not considered appropriate to restrict the height of any new hedges or trees in order to protect another individuals view, as the right to a view is not a material consideration in the determination of this application.

4.6 Their septic tank position, and distance from houses was sited in consultation with the previous owner of the adjoining ground. Can they be assured that the same principles be applied to the distance of the new development from their septic tank to prevent any problems in the future? Could it be stipulated that their septic tank and outfall pipe be pegged out prior to construction, and therefore protected from accidental damage which may result in contamination of his, or their, property with raw sewage?

The existing septic tank serving the two dwellings to the north is located on the northern boundary of the site. The protection of this septic tank and outfall pipe during construction works is essentially a legal matter. However the construction of the proposed dwellinghouse and its relationship to the septic tank will require to be addressed at the building warrant stage.

4.7 The applicant has a plant hire business. Could it be made clear in writing that no plant or machinery will be parked or stored within their residential property at any time?

The applicant has given no indication that he intends to operate a business from the site. If the business was to be operated from the house, a formal application for planning permission would be required. Furthermore, an application for planning permission may be required for the parking of commercial vehicles within the site.

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 Adopted Ayrshire Joint Structure Plan and the Adopted Cumnock-Auchinleck Local Plan, (1992). The Adopted Plan was prepared within the context of the then emerging Strathclyde Structure Plan. Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against Policy RES15 which states that the Council will pursue a policy aimed at retaining the character of existing residential areas.

The residential development of the site would not affect the character of the area and the proposal would therefore be in accordance 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 representations received and the characteristics and planning history of the site.

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. The site lies within the Rural Protection Area, as defined by the EALP, and is affected by Strategic and Residential Policies.

6.3 Policy SD3 of the EALP states that within the Rural Protection Area, development proposals relating to land located 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 RES13 of the Local Plan;
- (ii) can be fully justified in terms of site specific locational need;
- (iii) can be fully justified in terms of social and economic benefit to the community; and
- (iv) provides for the operational needs of agriculture or forestry.

The development does not contribute to rural diversification and the applicant has not provided any site specific locational justification for the development. The proposal is therefore contrary to the provisions of this policy.

6.4 Policy RES13 states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support. The Council will be supportive of residential development in the countryside where it can be demonstrated that the house is required on a permanent basis:-

- (i) for an agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) 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;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of one-site staff accommodation;
- (iv) 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. The proposal is therefore contrary to the provisions of this policy.

6.5 **Site Characteristics:** The proposal is located within a brownfield site that is situated within a group of dwellings. Overall there are 12 dwellings located within this area of Rigg Road. This includes one dwellinghouse that is situated to the south of the site. The site is screened by a number of mature trees along the eastern boundary of the site. It is considered that the development of the site would not result in the loss of any agricultural land, and would have a minimal visual impact on the rural area within which it is proposed.

Due to its location within an existing group of houses, the proposed development would not constitute an encroachment of development into the countryside. It is therefore considered that an exception to policy could be made in this instance.

6.6 **Planning History:** Outline planning permission (CD/88/177) for the erection of four dwellinghouses at Rigg Road, Cumnock was refused by the former Cumnock and Doon Valley District Council on 24 November 1988. Following a subsequent appeal to the Scottish Office, two of the houses were refused and two were approved on 06 September 1989. A full planning application for one of the houses approved on appeal was granted consent on 24 June 1991. No full application was submitted for the erection of a house on the second plot, which is the site of the proposed development currently under consideration.

Noted.

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 is indicated at paragraph 5.2 above, 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 above, 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 not in accordance, the material considerations outlined in paragraphs 6.5 and 6.6 above are considered significant enough for an exception to EALP policies to be made in this instance.

8.2 In this case, the applicant has not proven any specific locational need for the proposed dwellinghouse. The proposal is not therefore consistent with the policy provisions for new housing in the countryside in terms of the EALP . However, given that this is a brownfield site within an existing group of houses, it is considered that an exception to policy can be made.

8.3 In terms of the letters of objection, it is considered that the amenity and privacy of neighbouring properties will not be significantly affected by the proposed development. The concern raised regarding the siting of the house in relation to an existing septic tank is essentially a legal matter. The applicant has separate premises from which he currently operates his business. It is however accepted that the proposed development is contrary to the Council's Policies for Housing in the Countryside.

8.4 Given the site history and the location of the site, with dwellings immediately to the north and south, it is considered that should the Committee be minded to approve this application, it would not require to be referred to the Development Services Committee as the proposed development would be considered as a minor departure from policy.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

Alan Neish
Head of Planning and Building Control
09 May 2001
VE/FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. East Ayrshire Local Plan, Finalised Version with Modifications.
5. Cumnock- Auchinleck Local Plan.
6. Adopted Ayrshire Joint Structure Plan.
7. Planning Application CD/88/177.

Any person wishing to inspect the background papers listed above should contact Miss Vivien Emery on 01563555485.

Implementation Officer: Dave Morris

Form TP24A

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 01/0139/FL

Location Mansefield, Rigg Road, Cumnock

Nature of Proposal: Proposed Erection of Dwellinghouse

Name and Address of Applicant: Mr R Duncan
Blackstone Farm
Rigg Road
Cumnock

Name and Address of Agent N/A

DPO's Ref: [VIVIEN EMERY
PPO's Ref; [

The above FULL application should be granted subject to the following conditions.

(1) Notwithstanding the submitted plans, the red roof tiles proposed are not hereby approved. The roof of the dwellinghouse shall be constructed in grey or brown roof tiles, details/samples of which shall be submitted to and approved by the Planning Authority prior to the commencement of development on site,

REASON- In the interests of visual amenity.

(2) Notwithstanding the approved plans, a sample of the external wall finishes shall be submitted to and approved by the Planning Authority prior to the commencement of development on site.

REASON -In the interests of visual amenity .

(3) The existing trees along the eastern boundary of the site shall be retained intact and maintained thereafter to the satisfaction of the Planning Authority (except insofar as to allow access to the site in accordance with the approved plans). No other trees within the site shall be felled, lopped, have roots cut, or be the subject of any other works without the prior written consent of the Planning Authority .

REASON -In the interests of visual amenity and to maintain the existing visual contribution of the trees to the amenity of the area.

(4) Notwithstanding the submitted plans, a 1.8 metre high fence shall be erected along the boundary outlined in green on the approved plans. Details of the fence shall be submitted to and approved by the Planning Authority prior to the commencement of development on site.

REASON- In the interests of amenity.

(5) Prior to the occupation of the dwellinghouse, two parking spaces and a turning area shall be provided and thereafter maintained within the curtilage of the dwellinghouse.

REASON- In the interests of road safety.

(6) Notwithstanding the plans hereby approved, any septic tank provided to serve the development shall be sited in such a position as will enable it to be emptied by tanker .

REASON -In the interests of public safety .

NOTES TO APPLICANT

1. The applicant shall make early contact with West of Scotland Water, 35 Glenburn Road, Prestwick to discuss how a supply of water can be obtained.
2. The applicant shall make early contact with the Scottish Environment Protection Agency, 2 Alloway Place, Ayr to discuss drainage arrangements for the development 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.**

AGENDA