

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE : 24 MAY 2001

00/0161/FL : PROPOSED ERECTION OF 56 DWELLINGHOUSES (18 DETACHED AND 38 SEMI-DETACHED) AND CONSTRUCTION OF NEW ACCESS ROAD AT NETHERPLACE, AYR ROAD, MAUCHLINE.

APPLICATION BY MACTAGGART AND MICKEL LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of 56 dwellinghouses within the development site. The residential development will consist of 18 detached dwellings (7 four-bedroom, two storey Coll type, 4 three-bedroom, single storey Easdale type and 7 two bedroom, single storey Eriskay type) and 38 two storey semi-detached dwellings (19 three-bedroom Lismore type and 19 two-bedroom Oronsay type). The proposed development will be sited within the central part of the application site with the area of woodland located within the western and south parts of the site being retained and maintained as open space.

1.2 The layout of the site will result in the larger, detached dwellinghouses being located on the southern part of the development site running parallel to Ayr Road. The internal residential road will be laid out as a circular loop with a central access off Ayr Road. The development proposals include the provision of a new mini-roundabout on Ayr Road to allow the new access road to be formed. The internal road layout will also incorporate traffic calming measures and provide for a potential road link into the area to the north of the development site which is also in the ownership of the applicants. Amended plans submitted by the applicant show the provision of a road connection from the existing Netherplace residential area linking South Park Avenue with the new residential road layout.

1.3 The development proposals will result in the loss of a total of 16 trees, some of which require to be removed to allow the access to the site to be formed and others require to be removed due to their condition. The woodlands within the site are generally in a poor state and have suffered from lack of appropriate management measures. Consequently it is also proposed to provide additional landscaping within the site by the planting of additional trees and implementing a landscape and ground maintenance regime for the open space areas. A children's play area is to be provided in the northwest corner of the development site, which will comprise of a dog-proof fenced area with appropriate play equipment and a link footpath.

1.4 The proposed dwellinghouses on the southern part of the development site will have their rear garden areas screened from Ayr Road by 1.8 metres high timber paling fences.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheets and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant in respect of the matters described in Sections 8.7 and 8.9 of this report.

3. SUMMARY OF ANALYSIS

3.1 As is indicated at paragraph 5.2 in the report, the application is considered to accord 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 granted unless material considerations indicate otherwise. As is indicated in Section 6 in the report, there are material considerations relevant to the determination of this application.

3.2 Given the age of the Adopted Mauchline/Drongan/Ochiltree Local Plan, the Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications (EALP) should be considered as a prime material consideration. Whilst the proposal is in accordance with the provisions of the Adopted Mauchline /Drongan/Ochiltree Local Plan, it is contrary to the policy provisions of the EALP in that the proposed development is not an exclusive high amenity housing development, but rather represents a mixed development catering for a wider housing market.

3.3 Notwithstanding this, the proposed development complies fully with all other policy aspects of the EALP and the density, layout, design of dwellings and open space provision are considered acceptable. Consequently, it is considered that an exception to policy should be made in this case. Should the Committee be minded to approve the application, it would not be considered a significant departure from policy and would not require to be referred to the Development Services Committee for consideration.

3.4 With respect to the points of objection, the concerns raised with regard to the introduction of the new access and roundabout and the potential detriment to road and pedestrian safety, these concerns have not been echoed by the Roads Division. The new access and roundabout will require to be constructed to the appropriate standards of the Council as Roads Authority. The comments

regarding the lack of capacity at the Mauchline sewage treatment works can be addressed by the incorporation of a suspensive condition in any planning consent granted for the proposed development to ensure that no construction takes place on site until the drainage arrangements for the site have been agreed with West of Scotland Water. It is likely that the measures presently being pursued by the applicants will result in a net improvement to the drainage situation in Mauchline.

3.5 The proposed development will result in the loss of 16 trees within the development site, three of which will require to be removed to allow the formation of the new access. However, the woodland is in a poor state and has suffered from a lack of formal management measures. The applicant proposes to provide additional landscaping and tree planting and it is considered that through the submission and implementation of a woodland management scheme, the overall integrity of the woodland will be protected.

3.6 The impacts of the proposed development on existing school facilities and medical services will require to be addressed by the appropriate service providers and it would not be reasonable to withhold planning permission on such grounds, particularly where this site has been identified for housing development in the EALP and the adopted local plan.

3.7 By far the majority of objections to the proposed development relate to issues outwith the current application site specifically with regard to the existing temporary access at Clarinda Crescent and the upgrading of the residential roads within the Netherplace area. The applicants have sought to address the concerns raised regarding the temporary access by providing a link from the new development area to the existing Netherplace site, allowing access to Ayr Road via an access junction formed to appropriate standards. Once such a link is provided this would allow consideration be given to the potential closure of the current sub-standard access at Clarinda Crescent. However it is considered that the closure of this sub-standard access should be secured through an obligation under a Section 75 Agreement with the applicant

3.8 The upgrading of the existing roads at Netherplace is not a matter that can be addressed through the current application. To impose any condition or obligation on the applicants under this application would be considered 'ultra vires' i.e. outwith the scope of the determination of the present application.

3.9 The potential noise impact associated with the establishment of the proposed new roundabout is acknowledged and it is considered that an obligation should be incorporated in a Section 75 Agreement to require the applicant to undertake appropriate noise assessment prior to, and after the construction of the roundabout and if proven necessary, the provision of appropriate mitigation for affected properties.

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 MACTAGGART AND MICKEL LIMITED

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 a large application of area significance and the proposals are the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the north side of Ayr Road in Mauchline and lies some 15 metres west of the junction of Clarinda Crescent with Ayr Road. The site extends to 2.61 hectares, is relatively flat and comprises two distinct areas. The central area of the proposed development site is an open field in pastoral use, which is defined by an existing stob and wire fence. The western and southern areas of the site are characterised by existing woodland belts.

2.2 The development site is bounded to the west by open agricultural land, by Ayr Road and residential properties to the south, by existing woodland to the north and by residential properties within the existing residential area to the east in Clarinda Crescent and South Park Avenue. There is an existing red sandstone wall fronting part of the site on Ayr Road with an existing track access and gate located at the western end of this wall.

2.3 Trees within the development site and the trees outwith the site to the north are the subject of the Mauchline (West)(Provisional) Tree Preservation Order 2000. This provisional Order is due to expire on 17 July 2001.

2.4 **Proposed Development:** Full planning permission is sought for the erection of 56 dwellinghouses within the development site. The residential development will consist of 18 detached dwellings (7 four-bedroom, two storey Coll type, 4 three-bedroom, single storey Easdale type and 7 two bedroom,

single storey Eriskay type) and 38 two storey semi-detached dwellings (19 three-bedroom Lismore type and 19 two-bedroom Oronsay type). The proposed development will be sited within the central part of the application site with the area of woodland located within the western and south parts of the site being retained and maintained as open space.

2.5 The layout of the site will result in the larger, detached dwellinghouses being located on the southern part of the development site running parallel to Ayr Road. The internal residential road will be laid out as a circular loop with a central access off Ayr Road. The development proposals include the provision of a new mini-roundabout on Ayr Road to allow the new access road to be formed. The internal road layout will also incorporate traffic calming measures and provide for a potential road link into the area to the north of the development site which is also in the ownership of the applicants. Amended plans submitted by the applicant show the provision of a road connection from the existing Netherplace residential area linking South Park Avenue with the new residential road layout.

2.6 The development proposals will result in the loss of a total of 16 trees, some of which require to be removed to allow the access to the site to be formed and others require to be removed due to their condition. The woodlands within the site are generally in a poor state and have suffered from lack of appropriate management measures. Consequently it is also proposed to provide additional landscaping within the site by the planting of additional trees and implementing a landscape and ground maintenance regime for the open space areas. A children's play area is to be provided in the northwest corner of the development site, which will comprise of a dog-proof fenced area with appropriate play equipment and a link footpath.

2.7 The proposed dwellinghouses on the southern part of the development site will have their rear garden areas screened from Ayr Road by 1.8 metres high timber paling fences.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has indicated that there are no objections to the proposed development subject to conditions covering the following matters:

- (i) Access to the site will require to be taken via internal roads that comply with the Roads Development Guide 1996 and will require Construction Consent from the Roads Division. This consent would cover details such as road widths, footways, road construction, street lighting, drainage etc.
- (ii) The proposed mini roundabout shall be in accordance with the Design Manual for Roads and Bridges (Vol. 6)

- (iii) The developer is required to provide a 2 metres wide footway along the Ayr Road to connect the development to Clarinda Crescent and to extend southwards to link with the bus stop between Westside Gardens and Arran View.
- (iv) Junction visibility splay areas of 4.5 metres by 35 metres will be required at all internal road junctions with no object greater than 1 metre in height being allowed within these areas.
- (v) Junction visibilities of 9 metres by 90 metres are required at the junction of Ayr Road (measured from the edge of the existing carriageway) and no fencing, buildings etc. over 1 metre in height being allowed within these areas.
- (vi) Any existing public utility apparatus located in the verge will require to be protected beneath the proposed access.
- (vii) The existing ditch will require to be protected beneath the proposed access.
- (viii) No surface water must be allowed to discharge onto the public road.
- (ix) Any garages must be set back a minimum distance of 6 metres from the rear of the footway.
- (x) The private driveways will require to be paved for a minimum distance of 2 metres from the rear of the footway to avoid overcarry of loose material onto the public road.
- (xi) Any gates will require to open inwards, away from the public road.
- (xii) Parking for the development shall be in accordance with the Roads Development Guide 1996.
- (xiii) The traffic calming should be extended to include a gateway feature as you enter the development. The traffic calming measure indicated adjacent to Plot 54 should be a road hump or other appropriate category A feature.
- (xiv) Appropriate road signing must be erected on the B743 Ayr Road in advance of the new roundabout and also in association with the traffic calming measures within the development.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of the Roads Division. Other matters can be addressed under the requisite Construction Consent application that the developer will require to secure from the Roads Division.

The Roads Division has also indicated that the proposed road layout generally meets the Roads Development Guide 1996. Appropriate parking has been provided and the traffic calming is acceptable providing the measures indicated adjacent to plot 54 are amended to a category A feature. The proposed mini-roundabout is viewed as a traffic calming measure on the B743 Ayr Road that should reduce traffic speeds and improve road safety. A visibility splay of 9m by 90m from the edge of the existing carriageway is required to ensure good

visibility of the mini-roundabout from all approaches. The applicant should be advised that Construction Consent and a Road Bond will be required.

A note can be attached to any consent granted for the proposed development advising the applicant of the requirement for Construction Consent and the provision of a Road Bond from the Roads Division.

3.2 The West of Scotland Water Authority indicates that the existing sewerage system in Mauchline has, in recent years, come under severe pressure and is now in the position where there is surcharging from the system, and subsequent flooding at the site of the railway bridge over Barskimming Road. The location of this discharge is downstream of the development and will be exacerbated by the increased flow from the site. In addition the Scottish Environment Protection Agency has indicated that any future development discharging to the sewerage system, and thereby to the wastewater treatment works will breach discharge consent from the existing overflows. The environmental impact of dealing with additional discharge to the sewerage system is such that increased environmental pollution will occur.

Noted.

WOSWA also states that as part of its ongoing programme of drainage area studies, Mauchline has been identified as a top priority for investigation and this is currently being undertaken by consultants acting on behalf of WOSWA. From this study, identification of measures necessary to overcome existing limitations will be forthcoming which will allow WOSWA to prioritise the extent of work required and it is likely that a scheme to alleviate flooding and improve overflow discharge will be programmed within the next few years subject to financial constraints. WOSWA therefore suggests that the application should either be refused on grounds that it will exacerbate the existing flooding problem at Barskimming Road and cause WOSWA to breach SEPA discharge consents or that it be granted with a suspensive condition attached which indicates that the development should not proceed until resolution of the drainage constraints has been resolved by WOSWA.

The drainage area study has revealed that the implementation of measures to overcome the existing limitations of the sewerage system in Mauchline would be outwith WOSWA reasonable cost criteria. In response to this the applicants are currently investigating the effect of providing attenuation in the sewerage system, at their expense, as a means to obtain technical approval from WOSWA for connection to the sewerage system. The designed attenuation capacity would be greater than the calculated discharge from the proposed development, thereby improving the current situation in Mauchline. In these circumstances it is considered that a suspensive

condition should be attached to any consent granted for the proposed development, preventing any implementation of the development prior to the resolution of the current drainage problems with WOSWA.

3.3 The Scottish Environment Protection Agency has indicated that there are no objections in principle to the proposed development provided that the drainage arrangements are to SEPA's satisfaction. In this regard all foul drainage from the development must be connected to the public sewerage system to the satisfaction of West of Scotland Water. Surface water from the site should be discharged to the Mauchline Burn via a Sustainable Urban Drainage System. The soil in the site area is unlikely to be suitable for infiltration systems and therefore consideration should be given to the use of a wetland area/pond.

Should the application be granted, appropriate conditions in respect of the above can be included on the planning permission. Furthermore, a note advising the applicant to make early contact with the Scottish Environment Protection Agency can be attached to the planning permission.

3.4 Scottish Power has no objections to the proposal.

Noted.

3.5 British Gas Transco has no objection to the proposal subject to the protection of its plant during construction.

A note can be attached to any consent granted for the proposed development to advise the applicant of the need to contact British Gas Transco with respect to protection of existing plant and services within the locality of the development site.

3.6 The Coal Authority has no objections to the proposed development.

Noted.

3.7 East Ayrshire Council's Environmental Health Section has no objections to the proposed development.

Noted.

3.8 Mauchline Community Council has expressed its concern about the proposed development and extra number of school children that will be in the classroom of Mauchline Primary School. The class sizes are already very large. Also the development will put more pressure on the surgery.

East Ayrshire Council's Education and Social Services Department has no objections to the proposed development. Any increased demand on primary education provision within the Mauchline area will require to be addressed by the Council as Education Authority. Similarly, the Health Authority for the Mauchline area will require to address any increased demand for health services resulting from the proposed development.

The Community Council is also concerned about the type of roundabout that is to be located in Ayr Road. This road is very busy and is used a lot by lorries with heavy loads of logs going to Auchinleck. If it was a mini-roundabout it would be very dangerous to all these lorries using this road.

The proposed mini-roundabout to be constructed on Ayr Road will be constructed to standards required by the Council as Roads Authority. This will include the provision of appropriate advance warning signage. The Roads Division has not raised any road safety concerns with respect to the proposal and has in fact stated that the proposed mini-roundabout will act as a traffic calming measure that should reduce traffic speeds and improve road safety on the B743 Ayr Road at this location.

4. REPRESENTATIONS

4.1 A total of 46 letters of objection, most of which are in a pro-forma format have been received in respect of the proposed development. The points of objection can be summarised as follows:-

4.2 The local drainage system cannot cope with sewage from the proposed development. The main sewer serving the existing estate is a mixture of dual pipe and single pipe systems and following any heavy downpours, there is feedback of surface water and sewerage into low lying properties in Nether Walk.

While West of Scotland Water Authority has indicated that there are capacity issues with respect to Mauchline Sewage Works the applicants are currently investigating the effect of providing attenuation in the sewerage system, at their expense, as a means to obtain technical approval from WOSWA for connection to the sewerage system. The designed attenuation capacity would be greater than the calculated discharge from the proposed development, thereby improving the current situation in Mauchline. In these circumstances it is considered that a suspensive condition should be attached to any consent granted for the proposed development, preventing any implementation of the development prior to the resolution of the current drainage problems with WOSWA.

4.3 The proposed roundabout on the main road is close to a blind hill at the entrance to the village and this could lead to accidents. Within a short distance there are access roads to the new development, Arran View, Westside Gardens, West Park Avenue, Clarinda Crescent and South Lodge.

The proposed mini-roundabout to be constructed on Ayr Road will be constructed to standards required by the Council as Roads Authority. This will include the provision of appropriate advance warning signage. The Roads Division has not raised any road safety concerns with respect to the proposal and has in fact stated that the proposed mini-roundabout will act as a traffic calming measure that should reduce traffic speeds and improve road safety on the B743 Ayr Road at this location.

4.4 There is a considerable number of mature trees in the area and there is concern that there are plans to remove these trees. There is also the aspect of the local wildlife that depends on the trees and surrounding fields for their habitat and survival.

The development proposals will result in the loss of a total of 16 trees, some of which require to be removed to allow the access to the site to be formed and others that require to be removed due to their condition. The woodlands within the site are generally in a poor state and have suffered from lack of appropriate management measures. Consequently it is also proposed to provide additional landscaping within the site by the planting of additional trees and implementing a landscape and ground maintenance regime for the open space areas. A condition can be attached to any consent granted for the proposed development requiring the submission and implementation of a woodland management scheme for the site to introduce appropriate management procedures to enhance the woodland.

4.5 Schooling could be a major problem since there are already three primary one classes and there is insufficient accommodation within Mauchline Primary School to provide for three classes progressing from primary one to primary seven.

East Ayrshire Council's Education and Social Services Department has no objections to the proposed development. Any increased demand on primary education provision within the Mauchline area will require to be addressed by the Council as Education Authority.

4.6 Objection is made to the density of the proposed development resulting from the style of housing proposed. The meadow field is a high visual amenity on

one of the main approaches to the village. High density housing as proposed will be detrimental to this natural beauty spot and remove what to many is part of the attraction to the village.

The application site is identified as a proposed housing development site in both the adopted Mauchline/Drongan/Ochiltree Local Plan and the East Ayrshire Local Plan (Finalised Version with Modifications). In this regard, the principle of residential development on the site has been agreed. It is considered that the density, scale, layout and design of houses are acceptable. The existing woodland bounding the development site will continue to contribute to the visual amenity to the locality.

4.7 There is an existing development on the edge of Mauchline that lies on a Greenfield site where only a handful of properties have been sold, the remainder of which has lain undeveloped for approximately 2 years, proving the point that there is no need for additional private housing in Mauchline.

See response to 4.6 above.

4.8 The proposed development will cause considerable traffic congestion in this area which is already suffering seriously from this problem. There is concern with regard to the safety aspect of the proposed development in view of the increase in pedestrian movement, especially if vehicle such as articulated lorries, buses and other large vehicles fail to negotiate the roundabout. The roundabout will significantly increase the risk of accidents to cyclists from other road users.

The proposed roundabout will require to be constructed in accordance with the Design Manual for Roads and Bridges (Vol. 6) and in this regard, the Roads Division has not raised any concerns with regard to road users, cyclists or pedestrian safety.

4.9 The residents of Westside Gardens have commissioned an independent company of tree surgeons to carry out an inspection of trees at the proposed entrance of the development and have been advised that contrary to reports from other sources, the trees are not only in good condition but do not pose a danger to persons or property.

The objectors have not provided any information in support of their contention. However, the development proposals will result in the loss of a total of 16 trees, three of which require to be removed to allow the access to the site to be formed and others require to be removed due to their condition. The woodlands within the site are generally in a poor state and have suffered from lack of appropriate management measures. The developer also proposes to provide additional landscaping and tree planting within the development site.

A condition can be attached to any consent granted for the proposed development requiring the submission and implementation of a woodland management scheme for the site to introduce appropriate management procedures to enhance the woodland.

4.10 It is believed that it is proposed to widen and curve the pavements at the site of the proposed mini-roundabout. In view of the close proximity to the road of housing in Westside Gardens, there would be a case of infringement of our human rights with regard to increased noise pollution, increased air pollution and being subjected to the risk of personal injury or structural damage resulting from vehicular collision.

While the construction of the roundabout and associated road works may result in noise and air pollution, these would be temporary in nature and it is considered that there would be no significant long term impact on the amenity of existing residential properties. The proposed roundabout and road works will require to be designed and implemented to the requirements of the Roads Division in the interests of road safety.

4.11 The proposed development will put more pressure on medical and dental facilities in Mauchline.

The Health Authority for the Mauchline area will require to address any increased demand for health services resulting from the proposed development.

4.12 There should be appropriate screening in the form of either a solid or 'hit and miss' fence along the southern boundary of the site.

A condition can be attached to any consent granted for the proposed development to require an appropriate screen fence along the southern boundary of the site.

4.13 The access road currently serving the existing Netherplace development is a temporary access road granted to MacTaggart and Mickel in the late 1950's to provide access to their construction site. This access is understood to have been granted on the condition that any further development of the site would incorporate a new access road and the existing roads would be brought up to adoption standards by the contractor. After 40 years MacTaggart and Mickel should be forced to provide a permanent access and close the temporary access with its inherent problems. This should be a condition in granting permission for the proposed development.

The present application relates to the new development site only and not to the existing Netherplace residential development which was

originally granted planning consent by the former Ayr County Council in 1964 under application B/3865. This file is a missing file and it has not been possible to confirm the conditions attached to the planning consent granted at that time. Notwithstanding this, the temporary access road has been in use for approximately 37 years. However, residents of this area are aggrieved that this temporary access is sub-standard and, because of this, the residential roads within the Netherplace site have never been adopted by the Roads Authority for maintenance purposes. Currently, the maintenance of these roads is the responsibility of the residents. The objectors consider that the applicants should now be forced to provide a permanent access and that the existing access should be closed off.

The application under consideration indicates the provision of a road connection from the existing Netherplace residential area linking South Park Avenue with the new residential road layout allowing residents of the existing Netherplace residential area access via the proposed new access and roundabout at Ayr Road. This new access will be constructed to Roads Division standards. Discussions with the Roads Division have taken place with regard to the requirement for Construction Consent and the applicants may, as part of the Construction Consent application, be obliged to close of the existing sub-standard access serving the existing Netherplace residential area. This would only take place after the new access onto Ayr Road has been formed and the new link to South Park Avenue is in place. However the matter is further complicated by the fact that the land on which the existing access is sited is in the ownership of one of the homeowners in Clarinda Crescent and the formal legal consent of this homeowner would be required in order to promote closure of this access. Notwithstanding this, it is considered that an obligation should be secured with the developer to ensure that appropriate measures are undertaken to close off the existing sub-standard access. This could be secured through a Section 75 Agreement under the Town and Country Planning (Scotland) Act, 1997.

While such measures could assist in resolving the problems associated with the existing temporary access road, the issue of the current standard of roads within the existing Netherplace residential area is not a matter that can be addressed through the present application. To impose any condition or obligation on the applicants to upgrade roads in such circumstances outwith the current application site would be 'ultra vires' particularly where the applicants have indicated that they do not have any remaining land ownership interests in the existing residential area. However, with the potential for a new access to acceptable standards being provided with a link to the existing residential development, this may

allow the residents to pursue the future adoption of their residential roads.

4.14 Vehicles negotiating a mini-roundabout do so in low gear increasing noise, vibration and atmospheric pollution. The increase in noise could make television and radio difficult to hear.

No concerns have been raised by either the Roads Division or the Environmental Health Division with respect to potential increased noise nuisance associated with the proposed road infrastructure improvements. However, it is considered that traffic slowing down towards and accelerating away from the proposed mini-roundabout could result in an increase in traffic noise experienced by residents of properties located immediately adjacent to its location. In circumstances where a Highways Authority is undertaking road improvement works, it has a discretionary power under the Noise Insulation (Scotland) Regulations 1975 to provide insulation in specified circumstances against noise. If, by assessment, it is calculated that there will be an increase in traffic noise of 1 dB(A) or more at one or more of the facades of an dwelling and the resultant noise level would reach or exceed 68 dB(A) L10(18 hour), this would meet the eligibility criterion for insulation.

Although the works would not be undertaken by the developer and not the Highways Authority, in this instance it would still be considered reasonable to establish existing traffic noise levels prior to the construction of the proposed mini-roundabout with a further assessment of noise once in place. Should the results of such assessment indicate an increase in noise level of 1 dB(A) above 68 dB(A), it is considered that the developer should provide appropriate mitigation for the properties if adversely affected in the terms above. Appropriate assessment of noise impact could be secured through a Section 75 Agreement with the developer, including the obligation to provide appropriate mitigation measures for any properties so affected.

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 (1999) and the Adopted Mauchline/Drongan/Ochiltree Local Plan (1993). The Adopted Local Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposed development falls within an area designated 'Housing' and requires to be assessed under policy RES 26 which states that there shall be a presumption in favour of housing development on such designated sites.

The proposed development is consistent with the policy provisions of the adopted local 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), (EALP), the objections detailed in Section 4 above and the 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 EALP should be considered as a prime material consideration.

6.3 The application site is identified within the EALP as a Housing Development Opportunity Site (East Park Avenue – 30 houses) where the Council will support residential development. There have been no objections to the emerging local plan on the basis of this allocation. In particular, this site will be safeguarded for high amenity housing. The site contains a number of mature trees and the EALP indicates that the Council will request a Section 75 Agreement for the site in order to protect and manage the woodland resource.

Policy RES 1 of the EALP states that the Council will support the residential development of identified Development Opportunity Sites. The sites identified will be reserved for residential and associated recreational and amenity open space development. It is considered that the proposed development is consistent with Policy RES1. With respect to the woodlands lying within the development site, it is considered that an appropriate woodland management scheme can be secured through the imposition of a condition in any planning consent granted for the proposed development as the trees lie within the development site.

6.4 Policy RES11 states that the Council will require the provision of high amenity housing on identified sites such as East Park Avenue

With respect to high amenity housing, the proposed layout shows only 11 dwellings that could be considered as high amenity houses (i.e. 4 bedrooms and a large plot). However the applicants have indicated that their philosophy behind the proposed development site is to aim to provide a range of affordable house types that will be available to young families and individuals, in addition to more substantial houses that will be attractive to larger families. The applicants consider this is of fundamental importance to retaining

the vitality of the village and offering locals of all ages, who may be considering a move from their present home, the opportunity of staying in the area.

While the design and finishes of the proposed dwellinghouses are considered acceptable, the development is considered to be contrary to the provisions of Policy RES11.

6.4 Notwithstanding paragraph 6.3 above, it is considered expedient to ensure that the remainder of the site is developed in accordance with its designation for high amenity housing and in accordance with Policy RES11. In this respect, Policy RES3 of the EALP states that:

In appropriate circumstances, the Council will expect housing developers to enter into Section 75 Agreements under the Town and Country Planning (Scotland) Act 1997. Such Agreements will be requested where:

- i. the development of a site is to be limited to a particular type of residential use.*

The area of land to the north of the application site is within the control of the applicants and lies within the Development Opportunity Site for high amenity housing. It is considered that a Section 75 Agreement would not be necessary in this instance as future development of this site would be the subject of a formal planning application.

6.5 The application also requires to be considered with regard to Policy RES19 of the EALP which states:

In formulating their development proposals, developers should ensure that:

- i. areas of open space are of a size and configuration that is easily maintainable. Larger areas of well located, consolidated open space should be provided in preference to a series of smaller, individual areas scattered throughout the proposed development site;*
- ii. the proposed areas of open space are safe and secure, overlooked if possible by adjacent properties;*
- iii. play equipment and facilities for the disabled and those with special needs are provided as considered appropriate;*
- iv. areas of open space are attractively planted and where appropriate, use plant species to encourage wildlife; and*

- v. *all open spaces are provided, as appropriate, with footpaths for both access and leisure walking, linking with adjacent open spaces wherever possible.*

It is considered that the proposed development is generally consistent with the provisions of Policy RES19. The applicants have included areas of public open space as part of the proposals. Should the application be approved, a condition can be included on the planning permission requiring the submission to the Planning Authority for approval, the details of the landscaping and planting schemes associated with the development before any work starts on site. A further condition can be included on the planning permission requiring the applicant to submit to the Planning Authority for approval, details of a maintenance regime in respect of the landscaping and planting.

6.6 Policy RES21 is also of relevance and states that:

All developers will require to observe the minimum private open space criteria and standards of provision detailed in Schedule 4 of the Local Plan.

The private open space provision within the proposed development meets with the requirements of Schedule 4 of the Local Plan. It is therefore considered that the proposals accord with the provisions of Policy RES21.

6.7 The site has been the subject of several previous applications for planning permission as follows:-

- (i) B/3865: Outline permission for residential development for residential development at Netherplace, Mauchline granted by Ayr County Council in 1964. Details unknown due to file being missing.
- (ii) CD/80/125: Amendment to road layout for approval B/3865 – application withdrawn 01 February 1982.
- (iii) CD/80/126 : Re-siting of vehicular access at Netherplace, Mauchline – application approved by Cumnock and Doon Valley District Council on 21 October 1980. The approved development has never been implemented.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial for the Council in the determination of this application. Should the Council agree to approve the application, this would necessitate the Council entering into a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 with the applicant to secure

obligations on the developer as detailed below in sections 8.7 and 8.9 of this report.

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 above, the application is considered to accord 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 granted unless material considerations indicate otherwise. As is indicated in Section 6 above, there are material considerations relevant to the determination of this application.

8.2 Given the age of the Adopted Mauchline/Drongan/Ochiltree Local Plan, the Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications (EALP) should be considered as a prime material consideration. Whilst the proposal is in accordance with the provisions of the Adopted Mauchline /Drongan/Ochiltree Local Plan, it is contrary to the policy provisions of the EALP in that the proposed development is not an exclusive high amenity housing development, but rather represents a mixed development catering for a wider housing market.

8.3 Notwithstanding this, the proposed development complies fully with all other policy aspects of the EALP and the density, layout, design of dwellings and open space provision are considered acceptable. Consequently, it is considered that an exception to policy should be made in this case. Should the Committee be minded to approve the application, it would not be considered a significant departure from policy and would not require to be referred to the Development Services Committee for consideration.

8.4 With respect to the points of objection, the concerns raised with regard to the introduction of the new access and roundabout and the potential detriment to road and pedestrian safety, these concerns have not been echoed by the Roads Division. The new access and roundabout will require to be constructed to the appropriate standards of the Council as Roads Authority. The comments regarding the lack of capacity at the Mauchline sewage treatment works can be addressed by the incorporation of a suspensive condition in any planning consent granted for the proposed development to ensure that no construction takes place on site until the drainage arrangements for the site have been agreed with West of Scotland Water. It is likely that the measures presently being pursued by the applicants will result in a net improvement to the drainage situation in Mauchline.

8.5 The proposed development will result in the loss of 16 trees within the development site, three of which will require to be removed to allow the formation of the new access. However, the woodland is in a poor state and has suffered

from a lack of formal management measures. The applicant proposes to provide additional landscaping and tree planting and it is considered that through the submission and implementation of a woodland management scheme, the overall integrity of the woodland will be protected.

8.6 The impacts of the proposed development on existing school facilities and medical services will require to be addressed by the appropriate service providers and it would not be reasonable to withhold planning permission on such grounds, particularly where this site has been identified for housing development in the EALP and the adopted local plan.

8.7 By far the majority of objections to the proposed development relate to issues outwith the current application site specifically with regard to the existing temporary access at Clarinda Crescent and the upgrading of the residential roads within the Netherplace area. The applicants have sought to address the concerns raised regarding the temporary access by providing a link from the new development area to the existing Netherplace site, allowing access to Ayr Road via an access junction formed to appropriate standards. Once such a link is provided this would allow consideration be given to the potential closure of the current sub-standard access at Clarinda Crescent. However it is considered that the closure of this sub-standard access should be secured through an obligation under a Section 75 Agreement with the applicant

8.8 The upgrading of the existing roads at Netherplace is not a matter that can be addressed through the current application. To impose any condition or obligation on the applicants under this application would be considered 'ultra vires' i.e. outwith the scope of the determination of the present application.

8.9 The potential noise impact associated with the establishment of the proposed new roundabout is acknowledged and it is considered that an obligation should be incorporated in a Section 75 Agreement to require the applicant to undertake appropriate noise assessment prior to, and after the construction of the roundabout and if proven necessary, the provision of appropriate mitigation for affected properties.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheets and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant in respect of the matters described in Sections 8.7 and 8.9 of this report.

Alan Neish
Head of Planning and Building Control
10 May 2001

HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans
2. Statutory notices and certificates
3. Consultation responses
4. Letters of representation
5. East Ayrshire Local Plan (Finalised Version with Modifications)
6. Adopted Mauchline/Drongan/Ochiltree Local Plan
7. Approved Ayrshire Joint Structure Plan
8. Previous planning applications

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

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 00/0161/FL

Location	Netherplace, Ayr Road, Mauchline
Nature of Proposal:	Proposed erection of 56 Dwellinghouses (18 detached and 38 semi-detached) and construction of new access road.
Name and Address of Applicant:	Mc Taggart and Mickel 126 West Regent Street, Glasgow G2 2BH
Name and Address of Agent	

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

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

1. The proposed development shall be carried out in accordance with the application form and plans submitted on 01 March 2000 as revised by the site layout plan received by the Planning Authority on 09 April 2001.

REASON – To ensure that the development is carried out in accordance with the approved details.

2. A 2 metres wide footway shall be provided along the Ayr Road to connect the development to the footway at Clarinda Crescent and to extend southwards to link with the existing bus stop between Westside Gardens and Arran View.

REASON – In the interests of public road safety.

3. Junction visibility splay areas of 4.5 metres by 35 metres shall be provided at all internal road junctions with no object greater than one metre in height being allowed within these areas.

REASON – In the interests of public road safety.

4. Junction visibilities of 9 metres by 90 metres shall be provided at the junction of the new site access with Ayr Road and no fencing, building etc. over one metre in height being allowed within these areas.

REASON – In the interests of public road safety.

5. Any existing public utility apparatus located within the verge will require to be protected beneath the proposed access. No surface water shall be allowed to discharge onto the public road.

REASON – In the interests of public road safety.

6. Appropriate road signing shall be provided on the B743 Ayr Road in advance of the new roundabout and also in association with traffic calming measures within the development site.

REASON – In the interests of public road safety.

7. Any garages shall be set back a minimum distance of 6 metres from the rear of the footway.

REASON – In the interests of public road safety.

8. The access to each plot shall be by means of a standard footway crossing constructed in accordance with the East Ayrshire Council Roads Development Guide 1996.

REASON – In the interests of public road safety.

9. All individual driveways within the site shall be suitably surfaced for a minimum distance of 2 metres to ensure that no surface water discharges or loose material is carried out onto the public road.

REASON – In the interests of public road safety.

10. The gradient of each driveway shall not exceed 1:10

REASON – In the interests of public road safety.

11. Any access gates shall open inwards only, away from the public road.

REASON – In the interests of public road safety.

12. Notwithstanding any specification on the approved plans or application form, two off road car parking spaces shall be provided for each two and three bedroom dwelling and three off-road car parking spaces shall be provided for each four bedroom dwelling, such provision to be made prior to the occupation of each respective dwellinghouse.

REASON – In the interests of public road safety.

13. Notwithstanding any specification on the approved plans or application form, a minimum of 14 visitor car parking spaces shall be provided within the site.

REASON – In the interests of public road safety and residential amenity.

14. No demolition, site clearance or building operations shall be commenced until chestnut pale fencing of a height not less than 1.2 metres has been erected around the trees shown on the approved plan reference number 5063/30D. The fencing shall enclose either:

(a) the area described by the limit of the spread of the branches of the tree;

or

(b) a radius of 5 metres from the trunk of the tree, whichever is the greater.

Such fencing shall be maintained during the course of construction, and no storage, site structure, parking or any other operation shall be permitted within the area thereby enclosed.

REASON – To ensure that the existing mature trees adjacent to the site are protected during the construction phase.

19. A woodland management and landscaping scheme including details for the treatment and maintenance of the boundary of the site, woodland areas and areas of public open space shall be submitted to and approved by the Planning Authority prior to commencement of any development. The landscaping shall be implemented not later than the next appropriate planting season after the development has been carried out. The landscaping shall be maintained in accordance with the approved maintenance regime at all times thereafter. Any trees removed without consent of the Planning Authority or seriously damaged at any time thereafter shall be replaced by trees of similar size or species as may be agreed in writing with the Planning Authority.

REASON – To ensure that adequate landscaping is provided, to an adequate standard, and that it is subsequently maintained, in the interests of residential and visual amenity.

20. All drainage shall comply with the requirements of the West of Scotland Water Authority and the Scottish Environment Protection Agency. There shall be no commencement of development on site until such time as West of Scotland Water Authority has confirmed in writing that there is in place appropriate off-site drainage and sewerage infrastructure sufficient to accommodate the houses granted by this consent.

REASON – To ensure that adequate drainage is provided.

21. Before any work commences on site, details of a sustainable urban drainage system and its maintenance following installation shall be submitted to and approved by the Planning Authority. The sustainable urban drainage system shall thereafter be installed on site prior to the erection of any of the dwellinghouses in the development site.

REASON – To ensure that adequate drainage is provided

22. Notwithstanding any specification on the approved plans or application form, and before any work is commenced on site, samples of all external construction materials to be used shall be submitted to and approved by the Planning Authority.

REASON – In the interest of visual amenity

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any other order or enactment replacing this, all detached garages erected within the site shall have pitched roofs and shall be externally constructed in materials to match the dwellinghouses to which they relate.

REASON – In the interest of visual amenity

24. Notwithstanding any specification on the approved plans (including the 1.8 metres high screen fence to be provided on the southern boundary of the site) or application form, and before any work commences on site, details of the height, location and construction of all fences, walls and other means of enclosure shall be submitted to and approved by the Planning Authority.

REASON – In the interest of visual amenity

25. Any screen fencing to be erected shall not project forward beyond the front building line of any of the dwellinghouses.

REASON – In the interest of visual amenity

26. During the construction of the dwellinghouses, no building or other operations shall take place on the site outwith the hours of 08:00 to 18:00 Monday to Saturday and at any time on a Sunday.

REASON – In the interest of visual amenity.

27. The proposed mini-roundabout on Ayr Road shall be formed to an adoptable standard prior to the occupation of any of the houses hereby approved.

REASON – In the interests of road safety.

28. Prior to the commencement of works on site, the applicants shall submit to, and have approved by the Planning Authority, details of the timing of the installation of the road link from the new residential development site to South Park Avenue.

REASON – To ensure that the proposed link is provided at an early stage of the development of the site.

NOTES TO APPLICANT

- (1) The applicant is advised to contact the West of Scotland Water Authority, 35 Glenburn Road, Prestwick, KA9 2NS, with regard to water and drainage provision.
- (2) The applicant is advised to contact SEPA, 2 Alloway Place, Ayr, with regard to drainage provision.
- (3) The applicant is advised to contact Transco, Plant Location Protection, 95 Kilbirnie Street, Glasgow, G5 8JD, with regard to the protection of Transco apparatus.
- (4) The applicant is advised to contact the Coal Authority, 200 Lichfield Lane, Mansfield, Nottinghamshire, NG18 4RG, with regard to minerals within the site.
- (5) The applicant is advised to contact East Ayrshire Council Roads and Transportation Division, Greenholm Street, Kilmarnock, KA1 4DR, with regard to securing necessary consents.

**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