

EAST AYRSHIRE COUNCIL
SOUTHERN LOCAL PLANNING COMMITTEE
08 SEPTEMBER 2000

**99/0611/OL : OUTLINE PLANNING PERMISSION FOR ERECTION OF
SINGLE DWELLING AND ASSOCIATED GARAGE AT KERSE SQUARE,
POLNESSAN, PATNA**

APPLICATION BY MS A WALLACE

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the erection of a single dwellinghouse and garage on the site. An indicative layout of the proposed house and access has been submitted with this application. Details regarding the design of the house would be submitted at the detailed stage.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 In terms of the East Ayrshire Local Plan Finalised Version, the proposed development is located in the rural area, where residential development shall only be permitted where this meets a specific locational need. In this case, no site specific locational need has been proven by the applicant. The proposal is not consistent with the policy provisions for new housing in the countryside.

3.2 However the proposed development is consistent with the policies of the adopted Dalmellington/Patna Dalrymple Local Plan and the Finalised Cumnock and Doon Valley District Wide Local Plan which presume in favour of small scale residential development in the remoter rural areas. Furthermore, the site until recently was the subject of an outline planning consent for a dwellinghouse and there are no consultee or other objections to the proposed development of a dwellinghouse.

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 A WALLACE

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the proposed development, in the circumstances of this particular case, is a minor departure from the Development Plan.

2. APPLICATION DETAILS

2.1 **Site Description** : The site lies on the east side of the B730, Polnessan to Dronan Road, approximately 800 metres north east of Polnessan.

2.2 The site extends to 0.18 hectares and lies within a field with a number of mature trees to the north of the site. The site is bounded to the north and east by agricultural land, to the west by the B730 and agricultural land and to the south by a dwellinghouse.

2.3 **Proposed Development** : Outline planning permission is sought for the erection of a single dwellinghouse and garage on the site. An indicative layout of the proposed house and access has been submitted with this application. Details regarding the design of the house would be submitted at the detailed stage.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Patna Community Council has not responded to the consultation letter.

Noted

3.2 British Gas Transco, Scottish Power and the Coal Authority have no objection to make on the proposed development.

Noted

3.3 West of Scotland Water Authority advise that if a septic tank is utilised, it must be sited in such a manner as to allow easy access for emptying by tanker.

A condition can be applied to any planning consent if granted.

3.4 The Scottish Environment Protection Agency has no objection in principle to the proposed development providing the drainage arrangements are to their satisfaction.

Noted.

3.5 East Ayrshire Roads and Transportation Division have no objections to the proposed development subject to conditions. Visibility sightline splay areas of 2.5m by 90m will require to be formed and maintained at the access, with no obstruction greater in height than 1 metre allowed within those areas. The required visibilities are achievable by the removal of a hedge. The hedge is outwith the field fenceline and is within the road boundary on the embankment slope. The cutting of the hedge at ground level would be acceptable to this Department but technically East Ayrshire Council do not own the land although they maintain the road, verge and slope. They would suggest the applicant agrees the removal of the hedge with the landowner and arranges for this work to be done prior to any building work commencing on site. Other conditions recommended are regarding surfacing, car parking, turning area and pedestrian refuge/verge.

A suspensive condition could be attached to any planning consent, requiring the removal of the hedge, prior to the commencement of works. Permission is required from the Roads Division for any planting or building within the road verge and as such, they have control over any obstructions being subsequently planted or built within the visibility splays.

4. REPRESENTATIONS

4.1 There are no objections. The applicants agent has submitted a letter in support of the application.

4.2 Outline planning permission was granted for an almost identical application on 2 April 1991 although this expired on 2 April 1994 as no application for reserved matters had been submitted.

Noted.

4.3 As recently as October 1999 the site was deemed as suitable for development as East Ayrshire Council were minded to grant this application subject to a Section 75 Agreement being entered into with a neighbouring proprietor.

At this time it was the view of the Division that an approval may be appropriate, however the attainment of sightlines was presenting difficulties in terms not of their initial provision but of their long-term maintenance. It was considered that a Legal Agreement could achieve long-term maintenance, however this would involve a third party who was not agreeable to the arrangement.

4.4 It is submitted that the new policies contained within the East Ayrshire Finalised Local Plan which was adopted in November 1999 do not create a presumption against development. Policy RES14(ii) supports small scale residential developments which constitute a limited addition to an existing, clearly defined group of houses not delineated by a formal settlement boundary. In recent years a number of dwellinghouses have been constructed on land immediately adjoining the application site.

There is only one dwellinghouse adjacent to the site. Planning consent for this dwellinghouse, to the south of the site, was approved in February 1999 (Ref. No. 98/457/FL). The proposed dwelling does not therefore constitute an addition to a group of houses, within the scope of this policy. The Finalised Local Plan has not as yet been “adopted”; rather it has been agreed by Council as the prime policy base.

4.5 In the event that the new policies are considered to create a *prima facie* presumption against the application, it is submitted that consideration should be given to departing from the policy in view of the history of this matter and the particular circumstances of this application.

Noted (see 6.3 below)

4.6 The applicant accepts the need for visibility splays of 2.5 metres by 90 metres at the junction of the site access and the B730 Road. It is submitted that planning permission should be granted subject to a suspensive condition to the effect that the development will not commence until the applicant is able to secure such sight lines. The granting of planning permission, or indeed a resolution to grant, is likely to act as a catalyst in the applicant's ongoing negotiations with the owner of the adjoining land to secure the visibility splays.

Noted.

5. DEVELOPMENT PLAN STATUS

5.1 The relevant policy document is the East Ayrshire Local Plan Finalised Version. The application site lies within the Rural Diversification Area and is affected by strategic development and residential policies.

5.2 Strategic Development Policy SD4 states:-

Within the Rural Diversification Area, development proposals relating to land outwith settlement boundaries will be acceptable to the Council where the development:

- (i) comprises an acceptable form of residential use as detailed in Policy RES14 of the Local Plan; or
- (ii) provides for sensitive industrial, business, recreational or tourism development with a site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community.

There is no specific locational need for the proposed house. Furthermore, the proposed development would not constitute an addition to a defined group of houses and does not form part of a group of properties with a dual residential and workplace function. The proposal is therefore contrary to the provisions of this policy.

5.3 Policy RES13 states that the Council will be supportive of residential development in the countryside where it can be demonstrated that the houses are 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 on-site staff accommodation; or
- (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.

5.4 Policy RES14 states that:-

The Council will be supportive of small scale residential developments within the identified Rural Diversification Area, where:

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES13 above; or
- (ii) the proposed development would constitute a limited addition to an existing, clearly defined group of houses not delineated by a formal settlement boundary. Any proposed expansion of such a housing group will be limited to 50% of the total number of dwellings existing in that grouping as of 1 January 1999, up to a maximum of 4 new housing units, subject to the provision of Policies RES15 and 16.
- (iii) the proposed development constitutes very low density housing development, forming part of an integrated group of properties with a dual residential and workplace function supporting the rural economy.

There is no specific locational need for the proposed house. Furthermore, the proposed development would not constitute an addition to a defined group of houses and does not form part of a group of properties with a dual residential and workplace function. The proposal is therefore contrary to the provisions of this policy.

5.5 The proposal would have been considered acceptable in principal under the Dalmellington/Patna Dalrymple Local Plan and the Finalised Cumnock and Doon Valley District Wide Local Plan as the site is located within the Remoter Rural Area where there is a presumption in favour of single or small scale residential development in the countryside subject to a number of criteria.

Although the proposed development would be consistent with the Adopted Local Plan and the Finalised Cumnock and Doon Valley District Wide Local Plan, the Council has agreed for decision making purposes that the greatest weight should now be attached to the policies of the East Ayrshire Local Plan Finalised Version. It still, though, falls to the Council to take account of other relevant material planning considerations.

6. OTHER PLANNING CONSIDERATIONS

6.1 Outline planning permission for a dwellinghouse on this site was previously granted on 2 April 1991 by the former Cumnock and Doon Valley District Council (Ref No. CD/91/38) and by East Ayrshire Council on 7 June 1996 (Ref No. 96/0046/OL).

Both consents expired prior to the present application being submitted.

6.2 The proposed development was submitted when the Finalised Cumnock and Doon Valley District Wide Local Plan was the most relevant Council policy statement. Since the East Ayrshire Local Plan has been ratified by full Council on 4 November 1999, the Council has determined that for decision making purposes, the Finalised East Ayrshire Local Plan shall take precedence over the Finalised Cumnock and Doon Valley District Wide Local Plan and the Adopted Local Plan as a prime material consideration and the main local plan policy base. The Committee should note however that, prior to 4 November 1999, when the more relevant policies were those in the Finalised Cumnock and Doon Valley District Wide Local Plan, the applicant was advised that the visibility splays required were not on land within the applicant's control (as shown on the plans submitted by the applicant) and a Section 75 Agreement would therefore have to be entered into with the adjoining landowner.

This was required to ensure the removal of the existing hedge and to ensure no trees, hedges, fences, walls or other structures in excess of 1 metre in height were allowed to grow or be built within the splay area. A Section 75 Agreement was drafted by East Ayrshire Council's Legal Services in October and a draft copy sent to the applicant's solicitor. The applicant's solicitor, at the beginning of December advised Legal Services that the third party owners were unwilling to enter into the Section 75 Agreement. The Roads Division were then asked for an amended response to the proposal (See Section 3.5) and they advised that the proposal would be acceptable to them if the existing hedge was removed. The effect of this response has been to clarify that were the applicants able to secure removal of the hedge, its location within the road boundary would mean that future maintenance could be assured by the Roads Division. However, the applicants would have to secure the neighbouring land owner's agreement to removal of the hedge, it still being technically in their ownership.

Whilst the visibility sightline splay areas can now be controlled through a suspensive condition due to the above clarification, the principle of a house in this location has become contrary to policy, the Council having determined that from 4 November 1999 the main local plan policy base against which all future planning applications will be assessed will be the East Ayrshire Local Plan Finalised Version. The East Ayrshire Local Plan Finalised Version is supportive of residential development in the countryside only where a site specific locational justification has been provided for

the proposal. No site specific locational justification has been provided for this development.

6.3 The present proposal would have been considered acceptable in terms of the Finalised Cumnock and Doon Valley District Wide Local Plan and the Adopted Local Plan and it would have been likely to have received a favourable recommendation from the Planning Division under that now superseded policy framework. A favourable recommendation had also to take account of the sightlines requirement and noting that it was this issue alone which prevented determination prior to the policy change and that there was an extant consent on the site up to June 1999, there is a substantial basis for considering this application as a minor departure from policy.

Given the site history and the particular circumstances of the application, it is considered that a favourable decision could be issued by this Committee without referral to the Development Services Committee; the application being a minor departure.

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 In terms of the East Ayrshire Local Plan Finalised Version, the proposed development is located in the rural area, where residential development shall only be permitted where this meets a specific locational need. In this case, no site specific locational need has been proven by the applicant. The proposal is not consistent with the policy provisions for new housing in the countryside.

8.2 However the proposed development is consistent with the policies of the adopted Dalmellington/Patna Dalrymple Local Plan and the Finalised Cumnock and Doon Valley District Wide Local Plan which presume in favour of small scale residential development in the remoter rural areas. Furthermore, the site until recently was the subject of an outline planning consent for a dwellinghouse and there are no consultee or other objections to the proposed development of a dwellinghouse.

9. RECOMMENDATIONS

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

Alan Neish
Head of Planning and Building Control
30 August 2000
VE/SMB
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.
5. Finalised Cumnock and Doon Valley District Wide Local Plan.
6. Planning Application (Ref No. CD/91/38)
7. Planning Application (Ref No. 96/0046/OL)

Any person wishing to inspect the background papers listed above should contact Miss Vivien Emery on 01563 555485.

Implementation Officer : Pamela Clifford

REASON – To achieve the required visibility sightline splay areas in the interests of road safety.

- (3) Details to be submitted under Condition 1(d) and 1(f) shall include the following road alterations:-
- (a) a 2-metre wide pedestrian refuge/verge to be provided along the frontage of the site
 - (b) an internal turning area to be formed.

REASON – In the interests of road safety.

Note

1. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

**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