

Copy to: Councillor A Leitch

Mrs J Campbell  
Secretary  
Greenlea  
Parkhill  
Kemnay

06 March 1998

Mr A Grant  
Area Manager for Garioch  
Aberdeenshire Council  
Gordon House  
Blackhall Road  
Inverurie, AB5 9WA

Dear Sir

**PUBLIC MEETING AT KEMNAY VILLAGE HALL  
PLANNING APPLICATION 97/1116/1, ERECT 96 HOUSES AT KIRKSTYLE FARM**

I write to advise that we will be attending the meeting on the 14<sup>th</sup> April 1998, regarding the above planning application to which we have lodged a formal objection. Our written representations are as follows:

1. The position of the communal soakaway adjacent to the woodland car park may cause flooding to the house to the west "Rosshaven", which is owned by Mr A Ross. This will be to his detriment and contrary to Policies D1 (a) and (c) of the Local Plan.
2. We would wish to see at least two traffic calming humps in the new distributor road linking to Fyfe Park, in order to discourage speeding by the local "boy racers". Each individual house on the eastern boundary of the development has an access to this road and the developer has intimated that this will be sufficient to discourage speeding. However, the majority of such speeding occurs in the evening when the residents of these properties will be less likely to be using their driveways. Emergency services, which are usually not in favour of road humps, can continue to use Fraser Place for access to the village.
3. We are concerned that the proposals for surface water draining to individual soakaways may exacerbate the historic problem of flooding in Victoria Terrace, to the south of the site and may also cause flooding in the adjacent cemetery. Part of the overall development site Fyfe Park, has been zoned for 16 houses since the mid 1980's but development has been constrained due to surface water drainage difficulties. The topography of the site prevented connection to existing surface water drains in Fraser Place and Gordon District Council Environmental Health policies prevented connection to the combined sewer in Victoria Terrace. The only alternative was for the surface water to drain to individual soakaways but Environmental Health policy concurred with British Research Establishment (BRE), advice 365. This advice was based on the worst rainfall scenario over a 10 year period, and there was accordingly a presumption against such a system being adopted for such a large development of 16 houses. It does not seem plausible that S.E.P.A. can now formulate a Best Management Practice (BMP), which allows **6 times** this number of houses to utilise such a system.

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4. The developer has stated that the proposal for individual soakaways is at the express request of S.E.P.A. by way of the above mentioned BMP policy. We do however note that there does not appear to be a requirement for such BMP at the nearby proposed development of 28 houses at the Burnett Arms, Kemnay, where surface water will drain into the existing surface water sewer. One can only conclude that BMP at Kirkstyle is in reality being utilised in order to cut the overall cost of development and maximise profits. In this respect, perhaps BMP should be re-named to CMP, Cheapest Management Practice, which would be a more appropriate description of the policy.
5. Given that this particular BMP obviously conflicts with the BRE 365 advice utilised effectively up until only last year by our own Environmental Health department, this system is untried and there is no hard evidence to support overall effectiveness on such a large scale. In this respect it can only be described as a prototype system when used on such a scale and caution should therefore prevail, until such systems can initially be tested in smaller developments. If problems do occur, the cost of correction will be restricted and have a minimal impact upon the affected scheme and the surrounding community.
6. At our Community Council meeting on 27<sup>th</sup> November 1997, Mr E MacLeod of R B Farquhar Ltd., was questioned regarding the reasons for not constructing a new surface water sewer in Victoria Terrace, as originally envisaged. Mr MacLeod stated that it was partly due to the unquantifiable cost of connecting to all the old pipes along the proposed route and may make the overall development unviable. However, Mr E Hinds, former Assistant Manager with Grampian Regional Council Water Services Department, stated in March 1995, that development at Kirkstyle would require 1,200 metres of new surface water sewer along Victoria Terrace and Grove Road, at an estimated cost of £100.00 per metre. This projected cost would therefore be in the region of £120,000, which would not make development unviable in that it would merely be another direct cost of development and accordingly deducted from the price paid for the land.
7. The possibility of developing Kirkstyle was discussed initially at our meeting in February 1995 and again in more detail in January 1996. On this latter date, the owner of the majority of the site, Mr P Whitehead, made a presentation. Planning gain was a key issue and it was mooted that funds raised from the sale of the local authority landholding could be utilised for building a swimming pool in Kemnay. Other planning gain was to be in the form of two football pitches on ground to the north of the site and a new surface water sewer which would be of great benefit to the village and prevent the regular occurrence of flooding in Victoria Terrace during severe weather conditions. The cost of this new sewer would be borne by the developer and the local authority. A vote was subsequently taken by Community Council members and given the benefits outlined above, the vote was in favour of development at Kirkstyle. The football pitches have since disappeared from the present proposals along with the major planning gain of a new surface water sewer. In place of the latter gains, we have some additional woodland of which there is abundance around Kemnay, and a potential planning disaster in the form of surface water soakaways on a large scale in an area prone to flooding. In June 1986, former Grampian Regional Council, were on the verge of issuing a flood prevention order to resolve the serious flooding that occurred in Victoria Terrace.

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8. In the early 1980's , Gordon District Council were a party to the disastrous consequences of cheap and inferior construction methods at Littlewood Court sheltered housing scheme. The result was complete demolition of the housing and reconstruction at great expense to the then ratepayer. We hope that Aberdeenshire Council will not allow any similar errors of judgement to occur in the form of inferior drainage proposals at Kirkstyle. The Council, as a joint landowner in this development, has an interest in realising the maximum amount of money for the sale of the land. We trust that this interest will not in any way influence the quality of drainage installed at this site for the short-term realisation of maximum funds, which may eventually be to the long-term detriment of Kemnay. As a joint landowner in this development, Aberdeenshire Council is in a position to exercise a degree of discretion and insist upon good standards of drainage and the Council should exercise such discretion accordingly. The Council also have the power under the terms of "planning gain", to insist upon a new surface water sewer for this development. Item 4 paragraph 2 of "Planning Gain Guidelines for Councillors", issued by Jonathan Young, Head of Service, Central Division, states "it is perfectly alright to locate development in such a way that it triggers infrastructure which, indirectly, may be of use to existing communities. This is part of the wider job of land use planning. Hence a new development may be located in such a way as to generate a requirement for community facilities which can, incidentally, be of use to an existing community".

In conclusion, the forgoing comments and observations lead us to believe beyond doubt that the surface water soakaways are being proposed for no other reason than reducing overall development costs. Long term consideration for the consequences to the occupants of such housing or the possible impact upon the surrounding environment is not evident. The situation is quite unique in that Aberdeenshire Council, as owners of part of this site, has the opportunity to set an example to other developers with regard to standards expected in housing developments. The duty is one of care and is over and above that of the normal planning system. In 1997, there were some very substantial documents produced setting out the Council's overall aims and objectives and duties to the community. We read all the fine words and trust they will prove to have more significance than mere "**sound and fury**".

Yours faithfully

J Campbell  
Secretary  
**Kemnay Community Council**

Dated 15 April; 1998

The following historical outline of the Kirkstyle site demonstrates why Kemnay Community Council considers the provision of a new surface water sewer along Victoria Terrace to be an important and intrinsic feature of developing the site.

June 1986

Former Grampian Regional Council, were on the verge of issuing a flood prevention order to resolve the serious flooding that occurred in Victoria Terrace.

23 February 1995, Kemnay Community Council meeting

Presentation by P Whitehead who seeks support for development at Kirkstyle and states that one benefit by way of planning gain for the village would be "A new surface water drain which might improve the drainage outside Kirkstyle Garage and Victoria Terrace

01 March 1995

Letter from Director of Planning, Gordon District Council, which states that "We have commissioned a very detailed professional engineering investigation into the drainage of this site. The conclusion is it is not capable of being drained at economic cost. Similar considerations apply to Mr Whitehead's site at Kirkstyle. The Regional Council's Water Service Department has consistently advised that there are severe surface water drainage problems associated with his site in that it is not readily developable in drainage terms. The bulk of the site drains to the south towards Victoria Terrace, where there is no ready means of disposal of surface water."

31 March 1995, Kemnay Community Council meeting

K.C.C. write to G.D.C. to confirm support for development of the site A at Monymusk Road. At this stage the site C option at Kirkstyle had not been proposed by G.D.C.

23 April 1995, Letter from Mr P Whitehead, Kirkstyle

The letter refers to a report to KCC by David Evans and states "the additional cost (of the new surface water drain), would be borne entirely by the developer and presumably would be reflected in the price they offer for the ground. The additional cost would not fall upon G.D.C." He goes on to refer yet again to planning gain offered with this site.

12 December 1995, Report to Planning & Development Committee by Director of Planning Paragraph 4.5(c) states "The development of Kirkstyle Farm would necessitate the provision of a new surface water sewer for some 1200m. to the river Don. This infrastructure provision may give more flexibility for future development in Kemnay." The Director goes on to state that he does not attach as much weight to criteria 4.5(c) as criteria 4.5(a) & (b). However criteria 4.5(b) refers to "Impact on the Environment". If surface water drains had been proposed at this stage, then they would most certainly feature in this category. The possible adverse impact of this system on such a large scale would undoubtedly create a quite different overall picture of the site and lead the Director to reach a different conclusion regarding to suitability of this site when compared with the other two sites.

14 December 1995, Letter from Mr Hinds, Grampian Regional Council Water Services

The letter states "I confirm that in order to service Kirkstyle, it would be necessary to lay a new surface water sewer to the River Don."

11 January 1996, Kemnay Community Council meeting

Another presentation by Mr P Whitehead and he again states that "A new surface water / foul water drain will have to be installed down to the river Don which will necessitate closure of certain roads for some months. However the cost will be borne by the developer and not the local authority. The present drain often overflows and floods the road." K.C.C. then voted on the three sites taking into account the planning gain offered by the new surface water sewer and the result was 3 for site A, 1 for site B and 5 for site C, Kirkstyle.

6 February 1997, Aberdeenshire Council Development Brief for Kirkstyle

Paragraph 5.1 DRAINAGE states "A major part of the site infrastructure will be the provision of foul and surface water drainage. A new sewer will be required, RECOMMENDED to be along B.993 Victoria Terrace, Grove Road, Riverside Road to the River Don."

The above brief historical background of this site to date CONSISTENTLY refers to the provision of a new surface water sewer. It has also consistently been referred to as part of the planning gain attached to the eventual development of the site. If this feature had not been included at the outset, then Kemnay Community Council in all probability would NOT have voted in favour of developing this site. In essence, we have been duped into supporting the development of this site and this whole exercise makes a complete mockery of the consultation process.