

EAST AYRSHIRE COUNCIL

**LOCAL REVIEW BODY - POSITION STATEMENT IN RESPECT OF
LRB10/0154/PPP: THE WATERSTORE COTTAGE, KILMARNOCK ROAD,
MAUCHLINE TO BE HELD ON 30 JULY 2010**

1. CURRENT POSITION

- 1.1** A Notice of Review in respect of Planning Application 10/0154/PPP for the erection of a dwelling house at The Waterstore Cottage, Kilmarnock Road, Mauchline by Alan Wilson was received on 29 June 2010. The following related documents are set out in the Appendices to this position statement:-

Appendix 1 - Notice of Review submission

Appendix 2 - Decision Notice

Appendix 3 - Report of Handling


- 1.2** In accordance with the Town and Country Planning (Scheme of Delegation and Local Review Procedure) (Scotland) Regulations 2008, interested parties were invited to submit further representations (in this instance Roads and Transportation Division) in relation to the review of the original decision. No such representations were received.

22 July 2010

JM/KS

APPENDIX 1



 Department of Neighbourhood Planning & Economic Development Services	
Notice of Review	
29 JUN 2010	
PASSED TO:	
COPIES TO:	
ACKN:	DATE: INITIALS:
DEALT WITH:	

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
 RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS
 THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
 (SCOTLAND) REGULATIONS 2008
 THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.
 Failure to supply all the relevant information could invalidate your notice of review.**

Use BLOCK CAPITALS if completing in manuscript

Applicant(s)	Agent (if any)
Name <input type="text" value="ALAN WILSON"/>	Name <input type="text"/>
Address <input type="text" value="THE WATERSTORE COTTAGE
KILMARNOCK ROAD
MAUCHLINE
KA55TT"/>	Address <input type="text"/>
Postcode <input type="text" value="KA55TT"/>	Postcode <input type="text"/>
Contact Telephone 1 <input type="text"/>	Contact Telephone 1 <input type="text"/>
Contact Telephone 2 <input type="text"/>	Contact Telephone 2 <input type="text"/>
Fax No <input type="text"/>	Fax No <input type="text"/>
E-mail* <input type="text"/>	E-mail* <input type="text"/>

Mark this box to confirm all contact should be through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail? Yes No

Planning authority	<input type="text" value="EAST AYRSHIRE"/>		
Planning authority's application reference number	<input type="text" value="10/0154/PPP"/>		
Site address	<input type="text" value="THE WATERSTORE COTTAGE,
KILMARNOCK ROAD, MAUCHLINE"/>		
Description of proposed development	<input type="text" value="ERECTION OF DWELLING HOUSE"/>		
Date of application	<input type="text" value="16/3/10"/>	Date of decision (if any)	<input type="text" value="7/6/10"/>

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

SITE VISIT BY MEMBERS OF THE COMMITTEE WOULD BE BENEFICIAL TO ASSESS PLOT & LOCATION (PROXIMITY WITH MAINLINE)

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------|
| 1. Can the site be viewed entirely from public land? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:



Department of Neighbourhood
Planning & Economic Development Services

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

ALREADY A CLUSTER OF HOUSES AT SITE
 (3 IN TOTAL) 1 NEW BUILD APPROVED IN GARDEN GROUNDS
 BROWN FIELD SITE

A GAP SITE BETWEEN HOME & WATERWORKS
 TOTALLY UNOBTRUSIVE TO THE LANDSCAPE
 WELL CONCEALED WITH HEAVY PLANTING & TREES & NOT
 VISIBLE FROM THE ROAD
 EXISTING ACCESS ROAD.

ON THE EDGE OF MAUCHLINE SETTLEMENT BOUNDARY
 HOUSE FOOTPRINT SIMILAR STYLE TO NEWLY CONVERTED BUILDING
 ADDITIONAL PLANTING AVAILABLE BETWEEN ROAD & PLOT
 NATIVE HERBEROW TO BOUNDARY
 NO OBJECTIONS TO APPLICATION FROM 3RD PARTIES OR CONSULTANTS
 CONSOLIDATING EXISTING CLUSTER OF HOUSES

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

Department of Neighbourhood
 Planning & Economic Development Services
 East Ayrshire

29 JUN 2010

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

LOCATION PLANS

Notes.

1. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.
2. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.
3. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Please complete and return this form to **EAC Planning & Economic Development, PO Box 26191, KILMARNOCK, KA1 9DX.**

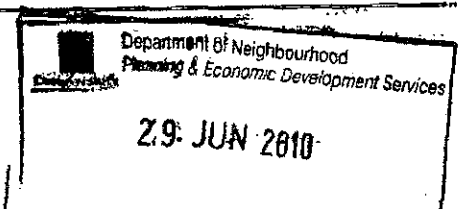
Declaration

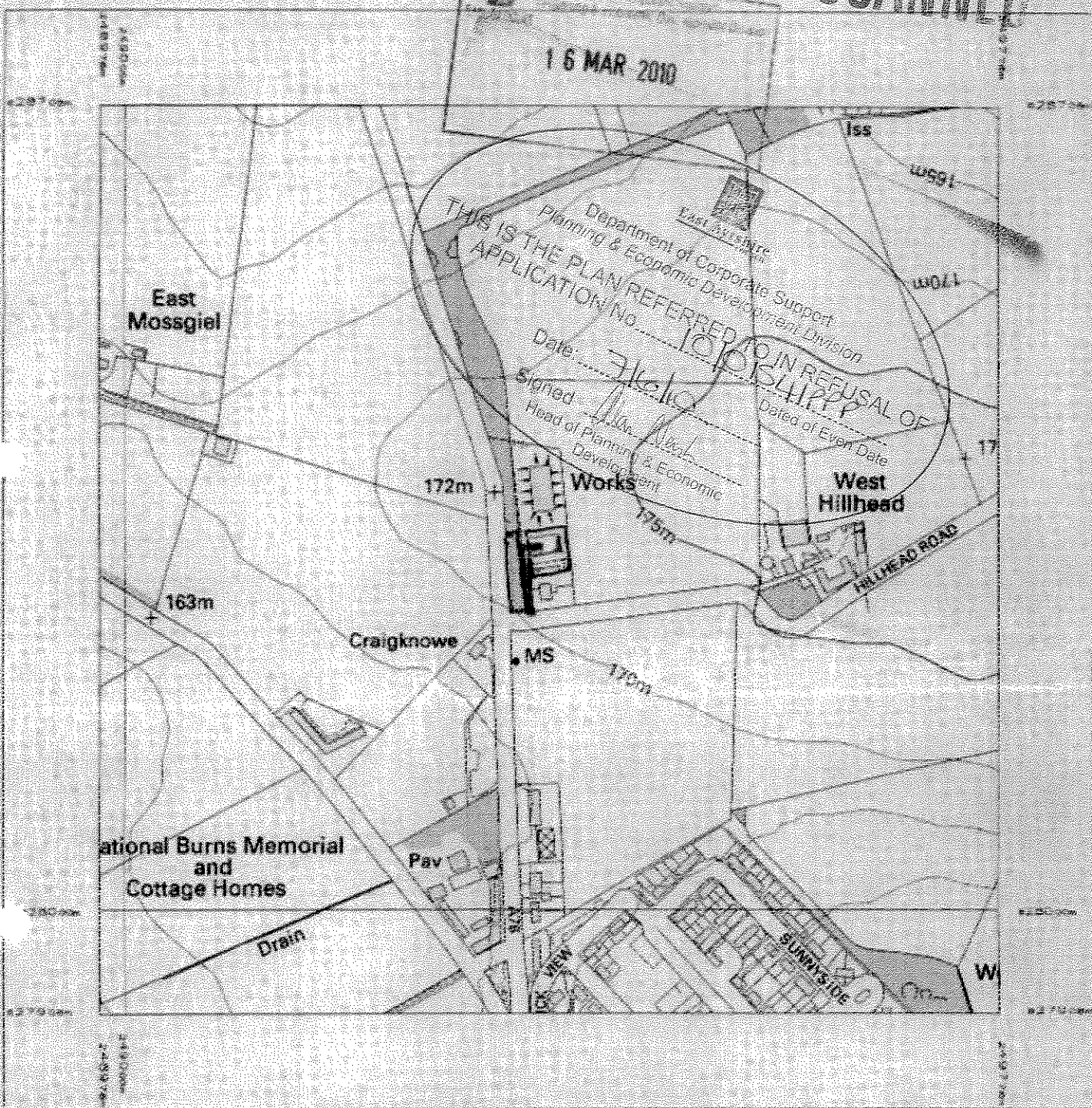
I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

27 / 6 / 10





Plotted 02 Mar 2010 from Ordnance Survey digitally derived data.

Produced using significant survey information from Ordnance Survey large scale digital data and incorporated into OS Landplan Jan 2007.

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Administrative boundaries revised to May 2007.

Additional boundaries information:

1.6 MAR 2010

THIS IS THE PLAN REFERRED TO IN REFUSAL OF APPLICATION NO. 100/0311/01

Date: 21.06.10

Signed: [Signature] Head of Planning & Economic Development

Department of Corporate Support Planning & Economic Development Division

East Ayrshire Council

29 JUN 2010

This OS Landplan plot is enlarged from derived data by computer software. It is not a copy of the original plan. Heights are in metres above Newlyn Datum. The representation of a road, track or path is no evidence of title or way.

The alignment of tunnels is approximate.

An OS Landplan plot is available on request from Ordnance Survey Mapping and Data Centres.

Ordnance Survey, the OS Symbol and OS Landplan are registered trade marks of Ordnance Survey, the national mapping agency of Great Britain.

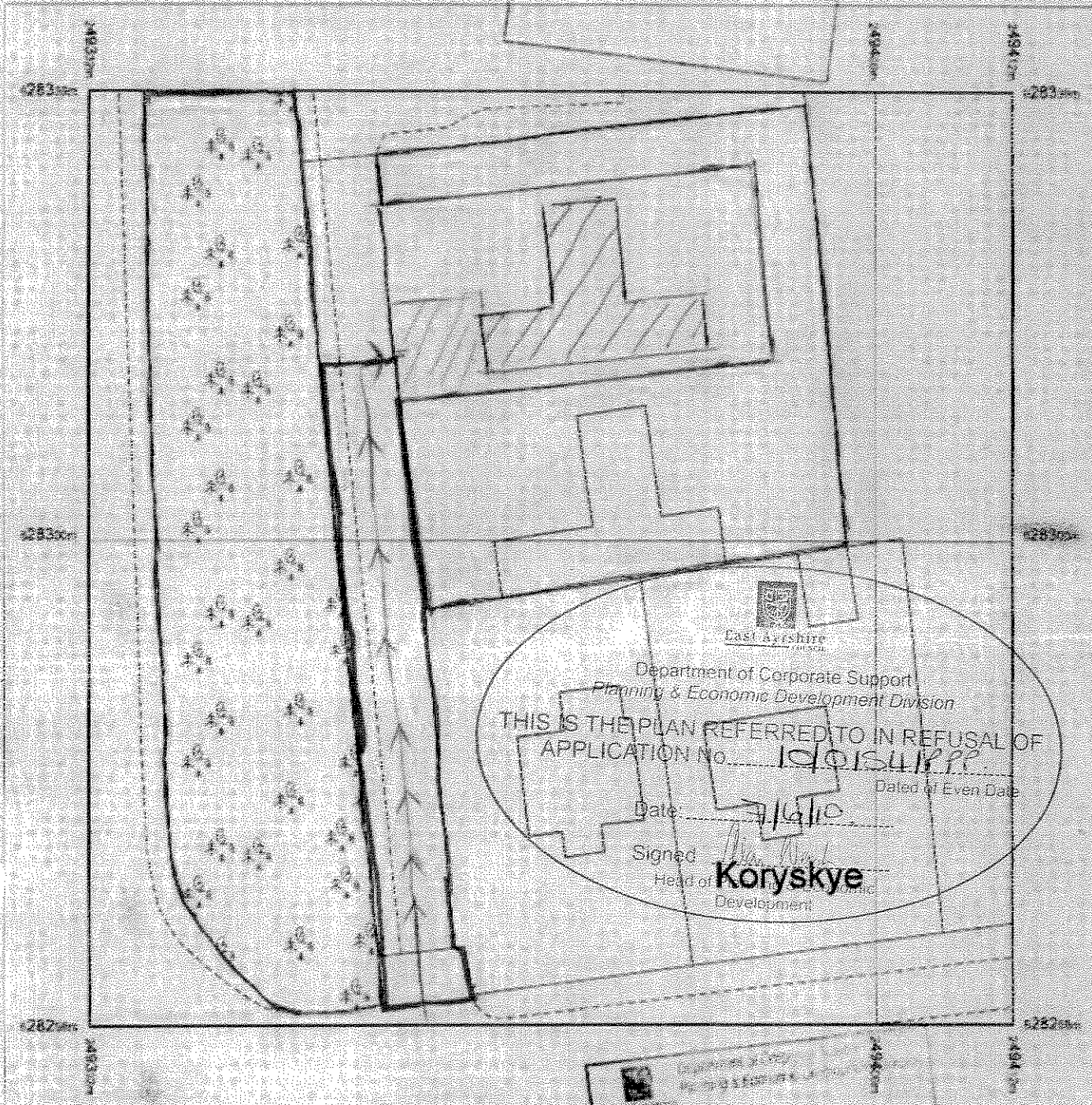
Plot centre coordinates: 249376 628308

Supplied by: East Ayrshire Council

Plot serial number: 05924500

Scale 1:5000

16 MAR 2010
SCANNED
OS Sitemap®



East Ayrshire
 Department of Corporate Support
 Planning & Economic Development Division
THIS IS THE PLAN REFERRED TO IN REFUSAL OF APPLICATION No. 1901541/PP
 Dated 07/06/10
 Signed *[Signature]*
 Head of **Koryskye** Development

Produced 02/03/2010 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date. © Crown Copyright 2010

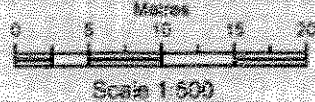
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The representation of a road, track or path is no evidence of a right of way

The representation of features as lines is no evidence of a property boundary

Part or all of this OS Sitemap is enlarged from mapping produced at one or more of the following scales: 1:1250, 1:2500, 1:10000



Supplied by **East Ayrshire Council**
 Serial number: 95024600
 Centre coordinates: 249371 85 028292 5

Further information can be found on the OS Sitemap information leaflet or the Ordnance Survey web site www.ordnancesurvey.co.uk

08 MAR 2010

ADDRESS

Department of Neighbourhood Planning & Economic Development Services
 East Ayrshire
MAUD 29 JUN 2010
 KAS STT

APPENDIX 2

DN24 - PPP(Local Development)(Refusal)

Department of Neighbourhood Services
Head of Planning and Economic Development Service
Alan Neish Dip TP



East Ayrshire
COUNCIL

Postal address: EAC Planning & Economic Development, PO Box 26191,
KILMARNOCK, KA1 9DX
E-mail address: submittoPlanning@east-ayrshire.gov.uk
Office locations: Kilmarnock 6 Croft Street, Kilmarnock, KA1 1JB
(if calling in person) Phone 01563 576790 Fax 01563 576774
Lugar Council Offices, Lugar, Cumnock KA18 3JQ
Phone 01563 555320 Fax 01563 555270

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended by The Planning etc. (Scotland) Act 2006)

Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Application Reference Number: 10/0154/PPP

TO: Mr Alan Wilson
Waterstore Cottage
Kilmarnock Road
Mauchline
KA5 5DD

REFUSAL OF PLANNING PERMISSION IN PRINCIPLE

With reference to your application validated on 16th March 2010 for planning permission under the above mentioned Act and Regulations for the following development:

Erection of dwellinghouse as indicated in the plans:

Plan Type	Reference	Version No	Received Date
Location Plan			16.03.2010
Block Plan			16.03.2010

AT

The Water Store Cottage , Kilmarnock Road, Mauchline, East Ayrshire, KA5 5DD

East Ayrshire Council in exercise of their powers under the above mentioned Act hereby **REFUSE** planning permission in principle for the said development. The reasons for the Council's decision are:-

1. The proposed development is contrary to Policy COMM5 of the Ayrshire Joint Structure Plan as the proposed house has not been justified as acceptable within the Rural Protection Area. There is no over-riding reason to depart from development plan policy.
2. The proposed development represents a residential development in the Rural Protection Area out with the settlement boundary of Mauchline for which no justification pertaining to an economic or agricultural need case has been submitted. The development would therefore be contrary to Policy SD3 and Policy RES13 of the East Ayrshire Local Plan. There is no over-riding reason to depart from development plan policy.

Elizabeth Morton, Depute Chief Executive/Executive Director of Neighbourhood Services

3. The proposed development is contrary to SD5 and Policy RES9 of the Alteration to the East Ayrshire Local Plan Finalised Version with Modifications as the proposed house has not been justified as acceptable within the Settlement Protection Area. There is no over-riding reason to depart from development plan policy.

Dated this 7th June 2010

Signed...


Alan Neish

Head of Planning and Economic Development

Notes to Applicant:

1. If the applicant is aggrieved by the decision of the Planning Authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the Planning Authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 **within three months from the date of this notice**. A Notice of Review form for this purpose is available for download from the Councils website (<http://www.east-ayrshire.gov.uk/devser/planandbuild/online.asp>) or on request by contacting the offices listed above. The completed Notice of Review form should be sent to the **Head of Democratic Services, East Ayrshire Council, Council Headquarters, London Road, Kilmarnock, KA3 7BU**.
2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

APPENDIX 3

EAST AYRSHIRE COUNCIL

REPORT OF HANDLING

Application Number : 10/0154/PPP
Applicant Name: Mr Alan Wilson
Development : Erection of dwellinghouse
Location : The Water Store Cottage
Kilmamock Road
Mauchline
East Ayrshire
KA5 5DD
Type : Planning Permission in Principle

1. Development Description

Erection of dwelling house

2. Site Description

The application site is located within an existing cluster of 3 dwellings to the North of Mauchline and out with the settlement boundary by approximately 60m and therefore falling within the rural protection area. The site is accessed from a narrow un-surfaced track which leads to the Scottish Water site to the north of the application site – bounded by a green metal palisade fence and occupying raised land and the newly converted dwelling house located immediately to the south of the site. To the west the site is enclosed by a 2m high timber vertical boarded timber fence creating a division between the access road and the site. On the opposite side of the access road a mature planted buffer strip provides a good degree of screening from the adjacent main road. To the east the site bounds agricultural land divided by a simple post and wire fence. The site is generally level with some slight undulations.

3. Representations Summary

None.

4. Consultations Summary

Roads And Transportation

The comments received do not raise any significant issues

Mauchline Community Council

No response received at the time of writing.

5. Development Plan Summary

Ayrshire Joint Structure Plan

Policy COMM5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

The proposed house does not meet with any of the above criteria as insufficient evidence has been presented to fully justify the proposal, the application is therefore contrary to policy COMM 5 of the Ayrshire Joint Structure Plan.

East Ayrshire Local Plan

Policy RES 13 is supportive of residential development in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis; relevant criteria are:

- (i) for a full time 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

The Policy also 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 applicant has not submitted any justification in support of the proposal and therefore the proposal is contrary to Policy RES13.

Policy SD3 states that, within the Rural Protection Area, development proposals relating to land located out with settlement boundaries will be acceptable to the Council only in five stated circumstances.

- (i) comprises an acceptable form of residential use as detailed in Policy RES13.
- (ii) can be fully justified in terms of site specific locational need
- (iii) can be fully justified in terms of social and economic benefits to the community
- (iv) contributes to rural land diversification
- (v) provides for the needs of agriculture or forestry.

As stated above the proposal does not comply with Policy RES13. The applicant has not provided any evidence to suggest that the development falls within the above circumstances, therefore the proposal is contrary to SD3.

6. Material Considerations

Consultation Responses – indicate support for the proposal with no adverse issues raised.

Alteration to East Ayrshire Local Plan Finalised with Modifications - the proposal is not compliant with the provisions of Policy SD5 and RES9.

Impact on the Amenity – the impact on the rural, visual and adjacent residential amenity are not considered to be significant as there are currently a cluster of 3 residential units forming within the immediate area, so the principle of a residential land use is established. The land in question is not agricultural land and could be classed as derelict land taking the form of a gap/infill site (albeit not housing on both sides) rather located between the Scottish Water works plant and the newly converted dwelling of the old water store building.

The ground within the fenced off area is in a derelict/overgrown condition. Although the application site is within the rural protection area but on the edge of the settlement boundary of Mauchline.

Planning History - the application site forms part of a larger site which was subject to a planning application (04/0442/FL) for the conversion of a storage building to form a dwelling house which was subsequently approved with conditions on 23/11/04 and now completed. In addition the adjacent site to the storage building benefited from planning approval for the erection of a single dwelling house within the garden ground of the existing dwelling, planning reference 04/0926/OL and subsequently application 05/1150/RM which was approved on 31/03/06.

7. Financial and Legal Implications

None

8. Application Assessment

The application for the erection of a new dwelling does not comply with the development plan. Although there has been no additional supporting information submitted it is important to take into consideration the fact that the application site is not a remote site within the countryside, rather a site within the garden grounds of a newly converted dwelling within a cluster of 3 dwellings, visually well screened from the nearby road on the edge of the settlement boundary of Mauchline. The planning history of the adjacent site should also be given weight.

9. Recommendation

Refused

10. Reasons for the Decision

The proposal is not compliant with development plan policy. Although the material considerations indicate a level of support for the development they do not carry sufficient weight to justify a departure from the development plan. Therefore the overriding consideration in this instance is the development plan and consequently the application should be refused.

Case Officer : Robin Ghosh

Signature:

Date:

Principal Planner:

Signature:

Date:

**Development Management
Manager :**

Signature:

Date: