

APPENDIX 3

EAST AYRSHIRE COUNCIL

REPORT OF HANDLING

Application Number : 10/0544/PP

Applicant Name: Mrs Eleanor Young

Development : Removal of Condition 1 of planning consent 05/0098/FL which controls the occupancy of the dwellinghouse for agricultural purposes

Location : Clover View
Holehouse Farm Access Road
Hollybush
East Ayrshire
KA6 7ED

Type : Planning Permission

1. Development Description

Removal of Condition 1 of planning consent 05/0098/FL which controls the occupancy of the dwellinghouse for agricultural purposes

2. Site Description

Site is accessed from the A713 between Hollybush and Polnessan. Modest, single storey dwelling of modern construction.

3. Representations Summary

None.

4. Consultations Summary

Dalrymple Community Council

No response

Patna Community Council

No response

5. Development Plan Summary

In terms of the East Ayrshire Local Plan, there are no specific policies relating to the removal of agricultural conditions. However, it should be noted that the original planning application was approved on the basis of an agricultural justification for a farm worker's house at this specific location (Policies SD3 and RES13). Without this justification, the erection of a dwellinghouse at this location would have been contrary to the provisions of the

Development Plan and would not otherwise have been approved. It is considered therefore that the removal of the agricultural occupancy condition would be contrary to the provisions of SD3 and RES13 and in this regard the application should be refused.

6. Material Considerations

The material considerations in respect of this application are the planning history of the site and the Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications).

Full planning permission for the erection of a detached dwellinghouse for a farm worker (Ref. No. 05/0098/FL) subject to an agricultural occupancy condition. The approval of a dwellinghouse at this location was only justified, in development plan terms, as the dwellinghouse was for a worker for the farm adjacent. Without such a justification for a specific locational need, the proposed erection of a house at this location would have been contrary to policy and would not have been supported.

For clarity, whilst development proposals will continue to be assessed first and primarily against the Adopted Local Plan, the Council has now given Authority for an appropriate and proportionate degree of weight to be given to the Alteration to the East Ayrshire Local Plan in the determination of planning applications, taking into account the Reporters Report into the Finalised Draft etc. In this case, the proposal has been essentially assessed as a new development and in this regard, the erection of a new dwellinghouse (without justification) at this location (RDA) would be contrary to Policy SD3, and RES 10. RES 11 is not applicable, and Policy RES12 applies also -however, the application would also be contrary to RES 12.

The applicant's agent supplied further information on why the condition for the agricultural tie should be removed concerning the applicant's ownership interest and personal situation; however, this was assessed as not being of sufficient weight to approve the application. While the Planning Authority has every sympathy with the unfortunate domestic situation which the applicant finds themselves in, it is considered that this dwelling house which is tied by a planning condition to the Holehouse Farm is an essential element of the farm as demonstrated by the Planning Application 05/0098/FL which justified the erection of the farmworker's house. Therefore it should have been sold as part of the original farm steading and not sold as a separate unit.

7. Financial and Legal Implications

None.

8. Application Assessment

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 Approved Ayrshire Joint Structure Plan (1999) and the Adopted East Ayrshire Local Plan (2003).

In this case, there are no specific policies relating to the removal of agricultural occupancy conditions associated with dwellinghouses. However, this occupancy condition was added as to make the development acceptable at this location based on an agricultural and specific locational justification. The applicant's personal situation is not a material consideration in the assessment of the application.

As approval of the dwellinghouse was only acceptable on the basis of agricultural need, removal of the occupancy condition would thus be contrary to the provisions of the Development Plan and the policies which allowed the consent in the first instance, in both the adopted plan and the Alteration.

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9. Recommendation

Refused

10. Reasons for the Decision

The proposal would not be compliant with the policies of the development plan and there are no material considerations in this instance which would justify approval of the application.

Case Officer : Marion Fergusson

Signature:

Date:

Principal Planner:

Signature:

Date:

**Development Management
Manager :**

Signature:

Date:

