

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 25 APRIL 2008

**07/0190/FL: PROPOSED RECYCLING FACILITY AND YARD,
POLYTUNNELS AND ANIMAL FEED STORE, CHANGE OF USE OF
EXISTING BUILDINGS TO OFFICE, SHOP, CAFÉ, HERITAGE CENTRE,
NEW ACCESS ROAD, TRAFFIC CALMING AND LANDSCAPING (IN
RETROSPECT) AT THREEPWOOD FARM, SORN ROAD, GALSTON.
BY MR JAMES GIBB.**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The development is in part retrospective, as the applicant has commenced some of the activities which are the subject of this application. The proposals are for a recycling facility and yard, polytunnels, animal feedstore and shop, change of use of existing buildings to office, shop, café, heritage centre; and provision of new access road, traffic calming and landscaping. The submitted detailed description includes the following:-

1. Recycling facility including, areas for storage of imported soil and rubble; areas for screening, treatment of imported soil and rubble and the shredding of wood waste; change of use of redundant grain mill to provide a facility for the sorting of builders rubble and landscapers waste; area for the storage of screened soil, wood, stone, drainage products, landscape materials, reclaimed artefacts, bark and wood by products; Polytunnels for the storage of screened soil; accommodation for storage of vehicles, equipment stock; biomass boiler; artefacts; parking and internal roadway for use by customers and staff vehicles; turning and loading/unloading areas for HGV vehicles and machinery; skip park area.
2. Removal of Modular office accommodation.
3. Change of use of Animal Feed Store to office accommodation, café, heritage centre, craft shop.
4. Building for Storage of Animal Feeds.
5. Display/sales area for fencing and garden products.
6. Construction of new road from junction with B7037 north of Sornhill to replace existing undesignated road for a length of 145 metres to a point where improvements will be made to a 230 metre stretch of the undesignated road.
7. New access point for customer's traffic and customer parking.
8. New access road for HGV's.
9. Garden/picnic area.
10. Landscaping.
11. Traffic Calming measures on B7037.

1.2 The activates comprising the recycling facility include areas for the storage, screening and treatment of imported soil and rubble; the display/sales area for reclaimed store, wood and artefacts; vehicle parking, turning and unloading of HGV's and machinery; skip hire; display/sales area for fencing and garden products; use of building for storage for animal feeds and garden/picnic area and are currently in operation on site.

1.3 Therefore, essentially the café, heritage centre/craft shop, the proposed new access road from the B7037, the new internal access road for HGV's, all the landscaping proposed and the traffic calming measures likely to be required are still to be implemented.

2. RECOMMENDATION

2.1 It is recommended that the Planning Application be refused in accordance with the reasons indicated on the attached sheet. It is further recommended that, due to the retrospective nature of parts of this proposal, enforcement action be authorised to require the cessation of all unauthorised activities on site

3. CONCLUSIONS

3.1 As indicated in the report, the application is considered to be largely contrary to the terms of the Development Plan. Therefore, it should be refused unless material considerations indicate otherwise. The material considerations on Section 6 are not of sufficient weight to merit approval of the application.

3.2 Although the applicant is claiming that the uses proposed form an acceptable type of diversification from his main business of farming, as stated, it is considered that the principal recycling facility is clearly contrary to policies in the Development Plan, fails to satisfy the sustainability requirements for such a proposal and the proposed landscape, will result in a significant, adverse, visually prominent feature within the landscape.

3.3 In terms of the retail and the heritage centre, it is considered that these uses should be located within the defined settlement. Approval of these elements could undermine the aims of the development plan, to locate these uses within the towns and to help sustain the local economies.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development it will require to be referred to the Principal Planning Committee, as there would be a significant breach of Council Policy.

Alan Neish
Head of Planning & Economic Development

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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Report by Head of Planning and Economic Development

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 contrary to the Development Plan and is subject to more than 10 objections.

2. APPLICATION DETAILS

Site Description:

2.1 The application site extends to some 5ha and is located in open countryside, approximately two miles to the south-east of Galston, the closest main settlement within the Irvine Valley. The site lies to the east of the small grouping of houses fronting the B7037, comprising Sornhill. The application site itself encompasses part of the B7037 fronting the properties at Sornhill and to the north of the junction with the new access road. It further includes the proposed new access road running to the south, adjacent landscaping and the proposed SUDs area well to the north of the main site area.

2.2 The main site area lies immediately to the north of the farmhouse and associated outbuildings at Threepwood. This area is essentially in two parts, the northern half containing the proposed car parking, open storage and vehicle turning; the southern half comprises a garden/picnic area, existing sheds, reclamation area and polytunnels.

2.3 The main site area, excluding the B7037 and access road, is surrounded to the north, east and south by the main farmhouse and associated agricultural land. The nearest residential property to the main site area, is on the opposite side of the existing access road to the south-west and comprises Threepwood cottage and garden. The remaining land to the west is an open field leading up to the Haymouth Burn running along the rear boundary of the properties in Sornhill. The remainder of the site abuts open fields to the north and west.

Proposed Development:

2.4 The development is in part retrospective, as the applicant has commenced some of the activities which are the subject of this application. The proposals are for a recycling facility and yard, polytunnels, animal feedstore and shop, change of use of existing buildings to office, shop, café, heritage centre; and provision of new access road, traffic calming and landscaping. The submitted detailed description includes the following:-

1. Recycling facility including, areas for storage of imported soil and rubble; areas for screening, treatment of imported soil and rubble and the shredding of wood waste; change of use of redundant grain mill to provide a facility for the sorting of builders rubble and landscapers waste; area for the storage of screened soil, wood, stone, drainage products, landscape materials, reclaimed artefacts, bark and wood by products; Polytunnels for the storage of screened soil; accommodation for storage of vehicles, equipment stock; biomass boiler; artefacts; parking and internal roadway for use by customers and staff vehicles; turning and loading/unloading areas for HGV vehicles and machinery; skip park area.
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7. New access point for customer's traffic and customer parking.
8. New access road for HGV's.
9. Garden/picnic area.
10. Landscaping.
11. Traffic Calming measures on B7037.

2.5 The activates comprising the recycling facility include areas for the storage, screening and treatment of imported soil and rubble; the display/sales area for reclaimed store, wood and artefacts; vehicle parking, turning and unloading of HGV's and machinery; skip hire; display/sales area for fencing and garden products; use of building for storage for animal feeds and garden/picnic area and are currently in operation on site.

2.6 Therefore, essentially the café, heritage centre/craft shop, the proposed new access road from the B7037, the new internal access road for HGV's, all the landscaping proposed and the traffic calming measures likely to be required are still to be implemented.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Galston Community Council – Object to this proposal, as they consider that the proposed development is totally unsuitable to the area both on the visual impact it will have and on the increase of heavy goods vehicles which will use the country roads. Further concern was expressed over the control of the disposal of the non-reclaimed products. Finally, concerns has been expressed that the unauthorised activities have been allowed to continue for some time on site.

Noted.

3.2 Scotland Power - Advise that they have no objections, in principle, to the proposal however, they have overhead line and underground cable apparatus in the area. Therefore, they reserve the right to protect and/or deviate their cables/apparatus at the applicant's expense.

Noted.

3.3 Scottish Water – Do not object to the proposal, however given the size of the proposed development, the applicant is advised to contact them. There are no public sewers in the vicinity of the proposed development. It is advisable however that any septic tank should be sited in such a manner as to allow easy access for emptying by tanker.

Noted.

3.4 East Ayrshire Council Roads and Transportation Division – Advise deferral of the proposal for the following reasons;

- a) The proposed means of traffic calming on the B7037 should be indicated so that an assessment of their adequacy can be made. The extent of the redline site may require to be extended beyond that proposed in the current submission.
- b) The traffic calming will require a traffic order to be promoted by the Roads Authority to reduce the speed limit adjacent to the Sornhill Village. This also may be outwith the current application site.
- c) The proposed sightlines for the new road junction with the B7037 should be indicated. This must be achievable in both the horizontal and vertical alignment.
- d) The construction of the new section of access road, 7.3 metres carriageway, will require the existing public road to be stopped up and removed from the list of public roads. The treatment of the existing road construction should be indicated.
- e) The section of existing access road to be improved to permit commercial vehicles from the development by widening to 6.0 metres will require the construction to be confirmed. The construction should include alteration to the existing access road profile to ensure the road surface water runoff falls to the

development side of the improved road where an appropriate drainage system must be constructed to the nearest watercourse. SEPA must approve any SUDS treatment required for the road surface water runoff.

- f) The formation of the new access points into the development site for commercial vehicles and customer car park access will require to be constructed to adoptable road standard as far as the entrance gates or the end of the junction radii. The actual adoption of the access will not extend beyond the 2.0 metre verge line. The sightlines for both these access points should conform to the appropriate standard.
- g) The submission indicates areas of planting adjacent to roads. The location and type of tree proposed should be in accordance with the requirements of the Roads (Scotland) Act where trees should not obstruct the carriageway or damage services in the road verge. Details of the mitigation measures should be included in the submission.

It is considered that should consent be granted, the concerns of the Roads Division could be covered by the imposition of appropriate planning conditions.

3.5 East Ayrshire Council, Environmental Health, Licensing and Community Safety – Advise they have no objections, however would make the following comments:-

1. Noisy work on the site during construction should be restricted to 7am to 7pm Monday to Friday, 8am – 1pm on a Sunday, and no noisy work on a Sunday. Particular cognisance should be paid to the close proximity of residences in the area.
2. Noise from the works during construction should be at such a level as will not cause annoyance or be otherwise detrimental to the amenity of the area.
3. All drainage from the property should be completed to the satisfaction of SEPA.
4. All waste arising from the construction works should be disposed of to the satisfaction of the Waste Management Authority and otherwise than by burning.
5. Noise from the premises whilst they are in operation should not be to such a level as will be likely to give rise to complaint.
6. Detailed advice in relation to health and safety and food hygiene matters will be given to the applicant at Building Warrant stage.
7. The contaminated land officer has not identified any issues of concern with respect to this site. Accordingly, their only comment is to suggest a general caveat be included in any consent issued to the effect that if any unforeseen contamination is uncovered during the development, any such findings should be intimated to the Local Authority along with remediation proposals, followed by subsequent validation confirming completion of remediation measures.

It is considered that should consent be granted, the concerns of the Environmental Health Section could be covered by the imposition of appropriate planning conditions and notes.

3.6 East Ayrshire Council – Access Officer – No reply at time of writing.

Noted.

3.7 Scottish Environment Protection Agency – advise that they acknowledge that the applicant has ambitious plans for Threepwood Farm and the surrounding countryside.

The applicant's proposal to operate a waste storage, segregation and recycling facility will require to be regulated by SEPA under the Waste Management Licensing Regulations 1994.

The proposed sorting of imported waste will require to be carried out on an impervious concrete surface. This base will require drainage collection and treatment prior to discharge.

In terms of any potential noise and/or dust nuisance, SEPA will impose license conditions to limit these types of nuisance within the site. While SEPA is in no way commenting on the competency of the applicant to operate this site, it should be noted that even with good management practise, situations may arise where dust or odour problems may cause nuisance to neighbours. In this regard, SEPA can take legal action to resolve breaches of license conditions if they occur. However, the Council, or land use regulations, may wish to assess the potential risks of dust and odour nuisance with regard to existing neighbours.

With regard to drainage issues, the applicant proposes to treat foul effluent by means of a septic tank discharging to a reedbed/ soak away arrangement. The existing septic tank and effluent disposal arrangements may require to be upgraded in order to comply with the requirements of their technical guidance and the Council's Building Control Department.

They advise that a licence under the Waste Environment (Controlled Activities) Regulations (Scotland) 2005 may be required for the discharge of foul drainage. Also, the upgrading of existing and/or construction of new drainage facilities, should take cognisance of the potential increase in traffic and visitor numbers to the site.

They further note that the Haymouth Burn runs under the existing access road and the plans indicate that this roadway is to be extended. They advise that they have a tacit presumption against culverting of watercourses and endorse the guidance provided by the Scottish Government to planning authorities in its national policy in respect of watercourses and culverting; NPPG 14. NPPG 14 'Planning and the Natural Heritage' promotes watercourses as "both valuable landscape features and wildlife habitats", for which planning should "seek to safeguard their natural heritage value". These small streams, and

more significantly, the protection of the existing riverbanks and wildlife corridor they are part of, should be considered in order to at least maintain the watercourse's correct environment status.

Any waste materials taken to or from the site must comply with SEPA's licence requirements.

SEPA have not objected to the proposal, however they have highlighted a number of areas of concern to the Council. The Council will need to consider these matters for themselves, and SEPA will also be able to address them at any licence application stage.

It should be noted that the applicant applied to SEPA in August 2007 for a Waste Management Licence to operate the proposal applied for here. Determination of this SEPA application is awaiting the outcome of this planning application.

3.8 West of Scotland Archaeology Service – Advise that there are no substantive archaeological issues raised by the proposal.

Noted.

4. REPRESENTATIONS

The application was advertised in the Kilmarnock Standard. Objections have been received from 24 parties and from the Galston Community Council, as detailed in Section 3. The objectors raised the following concerns;

4.1 The roads in the surrounding area, given the planned extent of customer parking, and through Galston are not suitable to handle the type and volume of traffic associated with this development.

The Council's Roads Division have not objected to the proposal. The alterations to the junction and access road, coupled with the proposed road improvements are likely to achieve satisfactory access and egress in the event that planning permission is granted. The proposal could be conditioned to require these works within a specified timescale to minimise any disruption to road users.

4.2 Concern has been expressed at the retrospective nature of the application and this is seen as a ploy by the applicant to establish a presence on site.

It is regrettable that applications are sometimes made in retrospect and the Council do not condone this approach.

- 4.3 The nature and volumes of waste associated with the proposal need to be clarified and it is hoped that the applicant will make the necessary applications to SEPA.

The planning application is clearly for the recycling of builder's waste, soil and rubble and not for the categories of waste defined within the SEPA licence application. If planning consent were to be granted, a condition proposing the type of waste acceptable to the site could be imposed.

- 4.4 In terms of the proposed traffic calming on the B7037, it is unclear as to the extent or nature of this, and concerns have been expressed that speed bumps can be noisy to adjoining neighbours.

The details of the traffic calming measures have still to be finalised, however, if approval is given a condition and consent requiring the submission of this details could be imposed.

- 4.5 The proposal is contrary to the terms of the local plan, with one objector citing it as contrary to specifically to Policy IND10.

As stated in Section 5 of the report, the proposal is considered to be contrary to both local and structure plan policies.

- 4.6 Approval of the proposal will result in a loss of prime agricultural land.

Part of the application site, if approved, would result in the loss of some prime agricultural land, however, this is considered to be on a comparatively small area.

- 4.7 Concerns have been expressed that the proposed alteration to the access road will prevent adjoining neighbours accessing their properties and communal septic tank.

The question of access to or egress from a neighbouring site, is a private legal matter and not a material planning consideration.

- 4.8 The dumping of waste, which is presently visible within the surrounding countryside, will have a detrimental impact on the visual amenity of the surrounding area.

It is acknowledge that the waste operations and the proposal as a whole will have a detrimental impact on the visual amenity of the surrounding area.

- 4.9 The junction of the new access road with both the B7037 and the existing C 104 leading to Newmilns, has inadequate sightlines.

The application site extends to incorporate part of the B7037, and is considered sufficient to achieve satisfactory sightlines, in the event that consent is granted.

- 4.10 The alterations to and the realignment of the existing access road will have a detrimental effect on the Haymouth Burn.

SEPA have been consulted in relation to this proposal and have raised no objections in respect of the overall site or indeed the Haymouth Burn.

- 4.11 Object to all aspects of waste importation, recycling and storage in any manner on this site.

Noted.

- 4.12 Concern has been expressed as to when and by whom the landscaping proposed on the submitted drawings will be done.

The implementation of the landscaping proposed on the submitted landscaping plan would be the responsibility of the applicant in the event that planning consent is granted.

- 4.13 Object to the establishment of a waste management facility on a farm site in a rural location as it will pollute the surrounding area with, dust, noise, excessive traffic, smells and water pollution.

In the event that consent was granted these concerns could be covered by planning conditions and notes, or would fall within the remit of the Council's Environmental Health Service and SEPA.

- 4.14 Object to the 'portacabin' type offices which do not have permission, but have been in existence for years and are considered to be an eyesore.

If approved, this consent would result in the removal of the 'portacabin' type offices from the site.

- 4.15 Concern has been expressed that the provision of a shop, serving both rural and farm customers is contrary to local plan policies.

Retail outlets should be directed to the town centres within the settlement boundaries. However, retail sales ancillary to the established animal feed business would be acceptable.

- 4.16 Concerns have been expressed that the nature of waste proposed in the planning application differs from that put forward in the applicant's licence to SEPA which includes; waste packaging, construction and demolition wastes, wastes from waste management facilities and municipal waste.

There is concern that this reflects the applicant's approach of saying one thing but doing another.

If planning consent was to be granted, it would be possible to restrict the types of waste allowed to be brought onto the site. It has been noted that the SEPA waste types differ from the planning proposal, however, it is likely SEPA would amend the licence to reflect the terms of the planning consent.

- 4.17 Object to changes to the existing roadway next to Haymouth Burn and highlight access and legal issues potentially arising from these changes.

The applicant has certified that he has notified all the owners of the application site and any access/legal issues are primarily a private legal matter between the parties concerned.

- 4.18 Advise that the powerline serving their house will be removed and believe Scottish Power should be advised.

Scottish Power have raised no objections to the proposal and any changes to the supply would need to be agreed with Scottish Power.

- 4.19 Proposal is considered to directly contravene the aims, objectives and principles of both the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan and the supporting documentation fails to fully address these issues.

It is accepted that the proposal is contrary to policies in the development plan.

- 4.20 The recycling/waste operation fails to establish proximity to source or to justify the location proposed. It is considered to have been developed contrary to how the plan envisaged, by deciding to set up the business and sourcing an appropriate site, prior to actually commencing operations on site.

The proposal is in retrospect, therefore, the applicant has clearly commenced the business prior to obtaining consent and has provided no locational or sustainable justification for the use, other than it takes place on his farm.

- 4.21 The proposal is considered to be contrary to the advice contained in PAN63: Waste Management Planning.

As stated in paragraphs 6.14 to 6.16 of this report, the Council consider that the proposal does not satisfy the criteria in PAN63.

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 Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (EALP). The proposal therefore needs to be assessed against the following policies:

Ayrshire Joint Structure Plan 2007 (AJSP)

5.2 TRANS 1 Land Use and Transportation

The three Ayrshire Councils shall ensure that:-

- A) all significant new trip generating development is closely linked to existing and proposed walking, cycling and public transport networks;
- B) adequate access is provided for a range of transport modes to areas of economic opportunity and particularly to the Gateway and strategic business locations identified in ECON 1 and ECON 2.
- C) all appropriate measures are promoted to minimise any negative environmental impacts of road traffic;
- D) essential use of the private car is accommodated within the context of an integrated approach to transport;
- E) accessibility to local services is maintained and improved by the integration of transport networks linking services to local communities; and
- F) Costs of new transport infrastructure and services incurred as a result of development proposal are met by developers.

The applicant's own supporting statement recognises the peripheral position of the application site. It is considered that he has failed to satisfy the sustainability aims embodied in this policy.

5.3 ENV 1 Landscape Quality

The quality of Ayrshire's Landscape and its distinctive local characteristics shall be maintained and enhanced. In providing for new development, particular care shall be taken to conserve those features that contribute to local distinctiveness including:

- A) setting of communities and buildings within the landscape;
- B) patterns of woodland, field, hedgerows and tree features;

- C) special qualities of rivers, estuaries and coasts;
- D) historic landscapes; and
- E) skylines and hill features, including prominent views.

Local plans shall seek to protect and enhance landscape character and establish criteria for the assessment of future development proposals in the context of the particular local landscape type within which the development is proposed.

Given the topography of the site and its prominent position within the Irvine Valley, it is considered that even with mitigation measures, the proposed development will still be very prominent within the surrounding landscape and therefore fails to either protect or enhance the landscape character of this part of the Irvine Valley, to the detriment to the visual amenity of the surrounding area.

5.4 ECON 3 Local and Other Business Opportunities

The three Ayrshire Councils shall make provision for an adequate supply of land for office, business and industrial use throughout their areas to cater for locally based services and other business development opportunities providing the development is small in scale and in keeping with the character of the surrounding area.

The Council through the local plan, in line with the requirements of the Structure Plan, has provided for appropriate business/ industrial areas within the Irvine Valley. The present proposal is considered to be neither small in scale nor in keeping with the character of the surrounding area. Approval would be likely to result in a visually intrusive, incongruous use within a distinctive countryside setting.

5.5 ECON 8 Biomass

Biomass power generation, co-fired power plants and combined heat and power plants shall conform to the plan where it can be demonstrated that:

- A) fuel sources, processing, bulk freight facilities and energy generating plant can be co-located;
- B) generating plant can be co-located with a significant energy user to meet on site requirements or where the users of surplus heat or power are in close proximity; and

- C) there are no unacceptable, significant adverse impacts on communities, landscape character and visual amenity, natural environment, and the built and cultural heritage.

The proposed biomass boiler, given its proposed positioning within a building, would have no significant adverse impacts on communities, landscape character or visual amenity, natural or built environment, or cultural heritage and is considered to accord with this policy.

5.6 ECON 10 Waste Locations

In identifying locations for new waste management facilities the three Councils shall, in the first instance, give preference to new facilities within or immediately adjacent to existing waste management sites. Where this is not possible, Councils should explore the possibility of accommodating new facilities within existing industrial sites or on other, suitable located areas of brownfield or previously contaminated land. All potential new locations will be assessed against proximity to the waste source, the Ayrshire and Dumfries and Galloway Area Waste Plan, physical and environmental constraints including the effect on community well-being, ground and surface water conditions and the capacity of transport systems.

The proposal is essentially for the creation of a small waste transfer station. Given the location of the proposal to the south of Galston, in open countryside, it is not considered to accord with the environmental sustainability or transport aims of this policy.

5.7 ECON 14 Rural Diversification

The three Ayrshire Councils shall:-

- A) Support the principle of rural diversification, particularly through proposals for small scale renewable energy; forest –based products and industries; leisure, recreation and tourism non-food crops and local quality food initiatives; appropriate rural housing and small business development; and
- B) Identify appropriate criteria for the assessment of proposals related to the diversification and growth of existing rural business and for the establishment of appropriate new business development in rural areas.

Although the proposal is clearly diversification in the rural area, it is not considered to be of a scale or of a nature as proposed in this policy. The type of diversification proposed in the policy relates more to the countryside/rural location of sites, whereas this proposal could be easily accommodated within an industrial area.

East Ayrshire Local Plan

5.8 Policy SD1

The Council will adhere to the principles of sustainability in its consideration of all development proposals.

The rural location of the site and the inability of the applicant to substantiate the waste sources serving the proposal, means that it is likely to be contrary to the principles of sustainability.

5.9 Policy SD2

There will be an over-riding presumption that all new developments will be located within the East Ayrshire settlements, unless the development is acceptable to the Council in terms of Policies SD3 and SD4 below.

The site is clearly located well outwith the closest defined settlement of Galston and is therefore contrary to this policy.

5.10 Policy SD3

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

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

The application site lies within the defined Rural Protection Area within the adopted local plan, although the applicant's farm actually straddles both this area and the Rural Diversification Area to the south.

Therefore, in consideration of this location within the Rural Protection Area, the applicant has failed to justify a site specific locational need for the activity, appearing only to have developed here due to his land ownership. The activity is also of questionable economic benefit with only 4 jobs proposed in the recycling area and any benefit to the community offset by the environmental disadvantages. Finally, it is not considered to be either an acceptable form of rural land diversification, for the reasons stated earlier, nor to be operationally necessary for agriculture or forestry. Therefore it is considered to be contrary to criteria (ii) to (v) of Policy SD3.

5.11 Policy SD4

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 RES 14 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

Policy SD4 does not apply as the site lies within the Rural Protection Area.

5.12 Policy IND6

All proposals for new industrial or business development on land not specifically identified for such purposes on the Local Plan maps and changes of use of existing premises to industrial or business use, will require to be justified against all of the following criteria:

- (i) locational need;
- (ii) availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;
- (iii) economic benefit;
- (iv) impact on surrounding environment and adjacent uses;
- (v) transportation and infrastructure implications;
- (vi) loss of public amenity open space;
- (vii) loss of prime quality and good quality locally important agricultural land falling within categories 1, 2, 3.1 and 3.2 of the Macauley Land Use Research Institute; and
- (viii) impact on natural and built heritage resources.

In terms of the eight criteria specified in this policy, against which all such proposals should be assessed, the applicant has;

- (i) failed to establish any locational need for the development,***
- (ii) has not provided any evidence to show that suitable alternative sites have been considered elsewhere, primarily within the defined settlement boundaries in the local plan.***
- (iii) The overall economic benefit is minimal and is likely to be offset by the sustainable disadvantages of the site.***
- (iv) Similarly, the location of the site creates transport and infrastructure implications. This is clearly, evidenced by the requirements for a new industrial width access road to service the site.***
- (v) The proposal will not result in the loss of public amenity open space.***

- (vi) ***Part of the proposal, particularly the new sewage treatment centre and SUDS, encroach on to an area of Category 3(2) good quality locally important agricultural land. The area around the SUDS will become a wetland to be planted and managed for wildlife conservation.***

It is considered that there will be some loss of good quality agricultural land.

- (viii) ***In terms of the impact on the natural resources, it is considered that the visual prominence of the site and the nature of the operation can only result in a detrimental impact on the surrounding natural resources.***

The proposed is considered to be contrary to all the criteria of this policy except (vi).

5.13 Policy IND10

Industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to:-

- (i) Category 1 and 2 business and industrial sites and those Miscellaneous Development Opportunity sites with potential for industrial or business development, as indicated on the Local Plan Rural Area Map;
- (ii) sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;
- (iii) sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;
- (iv) rail freight based industrial uses at existing coal disposal points; or
- (v) sensitive industrial and business developments with a clearly demonstrated site specific locational need to be located within the Rural Diversification Area. All proposals for industrial and business developments in the countryside will require to be justified and will be assessed against their impact on the surrounding environment and adjacent uses, transportation and infrastructure implications, loss of prime agricultural land and impact on natural and built heritage resources.

Only one of these criteria (v), is relevant to this proposal. It is considered that the supporting statement from the applicant does not provide enough information to satisfactorily demonstrate a site specific locational need.

5.14 Policy CS4

Policy CS4 states that the Council will ensure the provision of adequate waste disposal and management facilities comprising landfill sites, waste collection, separation, and recycling centres, waste transfers stations and civic amenity sites in as close proximity as possible to the points at which waste is generated.

Although recycling is therefore to be encouraged, the applicant has provided no information on where the waste is being transported from and where the resultant waste is being taken to. Therefore, it is difficult to gauge whether the proposal is in close proximity to the waste source.

Council's Area Waste Plan

Most waste generated in East Ayrshire is disposed of in landfill sites and it is considered that sufficient capacity is available in the existing operational site at Garlaff to meet demand for the local plan period and beyond. The existing opencast coal site at Darnconner near Auchinleck also has an existing planning consent and waste management licence for the deposition of controlled waste, although the site is not yet operational.

5.15 Policy TLR1

The Council will actively support and assist in the development of sustainable tourism in East Ayrshire in accordance with the Local Plan Tourism, Leisure and Recreation Development Strategy.

Given the location of the site and the mixture of uses proposed, it is questionable whether any tourism would be attracted to this site, given the emphasis on the industrial waste recycling operation.

The retailing or heritage centre may attract tourists, however, the thrust of the Council's policies is to direct such activities to the settlements within the plan area and approval of this proposal may act as a disincentive to achieving these policy aims.

5.16 Policy ENV12

Throughout the rural area, and especially in the Sensitive Landscape Character Areas identified on the Local Plan maps, the Council will ensure that all development proposals respect, in terms of their design, the local landscape characteristics of the particular area within which they are proposed. Developers will be expected to conserve and enhance, and reinstate or replace where appropriate, those features which contribute to the intrinsic landscape value and quality of the area concerned, including:

- (i) existing setting of settlements and buildings within the landscape;
- (ii) existing woodlands, shelter belts, hedgerows and trees;
- (iii) existing burns, rivers, lochs and other water features;
- (iv) existing field patterns and means of enclosure including dry stone dykes, hedging and fencing;
- (v) existing Public Rights of Way, footpaths and bridleways; and
- (vi) existing skylines, landform and contours.

Development which results in the permanent loss of landscape features which are not readily renewable and whose loss would be unacceptable in landscape terms, will not be supported by the Council.

This policy proposes to conserve and enhance landscape features. The proposal with its landscaping will undoubtedly enhance the landscape value of the area, however, parts of the proposal will undoubtedly irrevocably change the landscape pattern and character of the area. In many ways the landscaping proposed will alter the character of the area, whilst still not effectively screening the business activities proposed from the surrounding landscape setting.

5.17 Policy ENV13

Within the rural area, and especially within the Sensitive Landscape Character areas identified on the Local Plan maps, the Council will ensure, through the development process, that:

- (i) any authorised development is in keeping with, has minimal visual impact and reflects the nature of the rural area in which it is located, in terms of layout, materials used, design, size, scale, finish and colour. The design and material finish of any ancillary features will also require to be sympathetic to the character and appearance of the area;
- (ii) any authorised development is sensitively sited, landscaped and screened so as to blend into, respect and complement the landscape characteristics of the particular area in which it is to be located; and
- (iii) the landscape setting of a particular area affected by a proposed development is safeguarded from adverse or irreversible change by the use of appropriate planning conditions, management agreements, preparation and promotion of environmental improvement schemes.

Looking at each criteria in turn;

(i) It is considered that the proposal is not in keeping with the surrounding environment, due to its predominantly industrial nature, and would not be sympathetic to the character and appearance of the area.

(ii) It is accepted that the mitigation measures contained within the applicant's landscape overview and mitigation strategy, would allow the development to be landscaped and partly screened, but not to an extent that the development would blend into, respect and complement the landscape characteristics of the area.

(iii) Finally as stated earlier, it is not considered that the landscape setting of the area could be safeguarded by planning conditions, To effectively screen the areas and access proposed would inevitably significantly alter this landscape character of the area, to the detriment of the surrounding landscape.

5.18 Policy RTC 7

Policy RTC7 supports retail development proposals in out-of-town centre locations in six stated circumstances. One of these circumstances is pertinent to the application, this being where:

(iii) the proposal is for a factory shop, not exceeding 200m² gross floor area and falling within Class 1 of the Use Classes order, where the retail outlet is purely ancillary to the main manufacturing use of the premises and the goods sold are limited exclusively to those goods manufactured on site:

It is considered that retail outlet is not ancillary to the main manufacturing use of the premises or that all goods are manufactured on site. Therefore, the retail element of the proposal requires to be assess under Policy RTC 5.

5.19 Policy RTC 5

Policy RTC5 states that, in assessing all out-of-centre retail and other Schedule 5 development proposals, the Council will have regard to certain stated factors, those being:

(i) whether the applicants have adopted a sequential approach and can demonstrate that no suitable alternative sites are available within or on the edge of town centre;

The supporting statement provides no information on whether the sequential test has been undertaken and it does not demonstrate that there are no available and suitable alternative sites within or on the edge of town centres.

(ii) whether the proposal would affect , either individually or cumulatively, the vitality and viability of town centres and whether the scale of the proposal is appropriate to its location;

It is considered that the retail element of the proposal could potentially impact on the vitality of town centres close to this location, in particular Galston. The scale of the retail element is not appropriate to its location and is considered not to be ancillary to the main use of the site.

(iii) whether the proposal is accessible to a choice of means of transport;

It is considered that the site would only be accessible by the private car.

(iv) the effect of the proposal on travel patterns, infrastructure and road works;

The Roads and Transportation Divisions comments are detailed in Section 3 of this report.

- (v) whether the design of the proposed building would be acceptable;

It is considered that the design of the building that is proposed is not acceptable for a rural location.

- (vii) The effect of the proposal on the environmental quality, character and amenity of the area; and

The applicant has submitted a landscape overview and mitigation strategy with the application, and it is considered that this would alleviate some of the visual impact on the surrounding environment. However, it is considered that the proposal would still have a negative overall impact on the character and amenity of the area.

- (viii) whether the proposal would be compatible with other local plan policy objectives.

It is considered that the proposal would not be compatible with other Local Plan policy objectives.

5.20 Policy ENV19

The Council will presume against any developments which:

(i) have an adverse effect on watercourses by increasing levels of pollution or detrimentally impacting upon water quality, aquatic habitats for wildlife or recreational amenity; and

(ii) have an adverse effect on groundwater or major aquifers. The Council supports the source control and passive treatment measures recommended by the Scottish Environment Protection Agency in its 'Guide to Sustainable Urban Drainage' and will support new developments with innovative methods or surface water disposal and treatment which meet the standards of SEPA and the Water Authority. Where necessary, the Council shall require applicants to submit supplementary drainage information to assist in the determination of planning applications.

Although the new access road crosses the Haymouth Burn, SEPA and the Council's Roads Division have not objected to the proposal.

The applicant has provided information including the provision of a SUDS system and in the event of planning consent being granted, it would be possible to condition the detail of this scheme.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the letters of objection, the planning history, the applicant's supporting planning waste management working plan and the landscape overview and mitigation strategy, and the impact on the amenity of the area.

Consultations

6.2 From the consultation response received, the Community Council support refusal of the application. Both SEPA and the Council's Roads Division express reservations about the development, which it is considered align with some of policy concerns detailed in Section 5 of the report.

Representations

6.3 The representations have been summarised in Section 4 of the report and are considered to be supportive of the amenity and policy issues discussed in Section 5 and support refusal of the application.

Planning History

6.4 07/0621/FL – Change of use of farm buildings for storage of vehicles, equipment, tools and materials and the operation of landscaping, fencing and site clearance business – still to be determined.

6.5 06/0301/FL – Construction of farm field access roads – Approved with conditions 16/10/2006.

6.6 05/0287/FL – Proposed new access road for existing business, storage area for retailing wood, stone, soil, bark, general building and landscape waste and builders landscape waste. Operation of landscape and contractors business, Skip hire – withdrawn 09/10/2006.

6.7 05/0207/FL – Proposed erection of Modular Officer Block – withdrawn 09/10/2006.

6.8 05/0132/LD - Application for confirmation of existing lawful use for shop, office, warehouse and feedstore mill – Approved 13/12/2005.

6.9 02/0431/AD – Proposed signboarding, approved with conditions 4 July 2002.

Planning Enforcement History: DP/030/02/0167

6.10 The Council have over the period of the last 7 years been investigating activities being undertaken at Threepwood. The following is a history of these investigations;

- 23 June 2004 – Operational Development Enforcement Notice served in relation to waste building materials being stored on the site without the benefit of PP.

The notice required the removal of these stored materials from the site.

- 23 December 2004 - 2nd notice served as business developing – Breach alleged - An animal feed business, contractors business, turf business, fencing business, demolition and site clearance business, soft landscape and design business, plant hire business and the import, export and re-grading of soil are all ongoing at the premises without the benefit of planning consent. In addition to this portakabins have been introduced to provide office accommodation along with the erection of poly tunnels for the wintering of sheep, all without the benefit of planning consent.

The notice required:-

- 1) Discontinue the unauthorised uses as described in part 3 above.
- 2) Remove the unauthorised structures described in part 3 above from the site, ie. the polytunnels for wintering sheep and the office portakabins.

This notice was sisted following the submission of planning application 05/0287/FL which sought to address the issues raised. This application, after several revisions was withdrawn by the applicant on 9 October 2006. A further application, 07/0190/FL was submitted however this failed to address the landscaping contractors business or the issue of building materials being stored on the site.

- 27 March 2006 - Stop and Enforcement Notices served in relation to formation of new private ways through site. Subsequent application received and approved in this regard therefore terms of notice complied with.
- 10 May 2007 - Further Notice served to address landscape contractors business and storage of building materials. Notice required the stopping of the unauthorised use and removal of building materials.

Applicant's supporting statements

6.11 The applicant's supporting planning statement, whilst outlining the proposal and the history of the site, arguably overstates the national planning position, whilst discounting the local and structure plan policy position.

6.12 The Waste Management Working Plan is a technical document outlining the working of the site should consent be given. Within it, it clearly states that only 4 staff positions will be created in association with the waste

operation. This document was submitted with the applicant's submission to SEPA for this Waste Management License.

6.13 Finally the landscape mitigation document supports the applicants claim that the development will not significantly affect the surrounding landscape. However for the reasons stated in Section 5, given the scale of the development, the topography and orientation of the site, it is considered unlikely that any landscaping would achieve a satisfactory solution without significantly altering the landscape character and appearance of the surrounding area.

PAN63: Waste Management Planning

6.14 PAN63 is relevant following the adoption of the National Waste Strategy (NWS) and the requirements of the Area Waste Plan (AWP). AWP's and the NWS are material considerations carrying significant weight that planning authorities should take into account when preparing their development plans and determining applications. Planning authorities should seek to provide for waste management facilities in accordance with the AWP, through development plans or where appropriate interim guidance. The Council has prepared policy in the adopted local plan and the Structure Plan has also formulated a policy position.

6.15 Areas of search and sites for waste management shall be arrived at through the development plan process. Paragraph 22 of PAN 63 states that in general, the most appropriate locations are those with the least adverse impacts on the local population and environment. All locations need to be considered against the principles of sustainable waste management. The PAN contains a hierarchy of types of locations that might be suitable; i.e. industrial areas, degraded, derelict or contaminated land, working and worked at quarries, existing landfill sites, existing or redundant buildings which could be adopted, sites previously operated for waste and other suitable sites located close to water, rail or major road junctions.

The present proposal is not considered to satisfy any of these criteria, nor does it comply with the aims or policies in the development plan. Paragraph 23 specifically states that "attractive and open rural areas should normally be avoided for most types of facilities".

6.16 The PAN goes on to recognise the need to have these sites accessible, in order to establish a sustainable waste management system. It states that the Planning System can assist in establishing an appropriate network, particularly for facilities in residential and retail areas and centres of industry. These facilities could range from the smallest to the largest type facility. Although potentially generating householder complaints, this could be integrated by careful location, management and appropriate conditions relating to working hours/noise/dust.

The development control considerations in the PAN, reiterate the need to locate such uses against the principles of sustainable waste management. The applicant has failed to show this consideration in his site selection, and it is not considered that the use of conditions could mitigate the significant adverse effects on the surrounding area and environment.

Scottish Planning Policy 15 (SPP15) – Planning for Rural Development

6.17 In response to the applicant's comments relating to SPP15 and in consideration of this policy guidance, it is considered that the applicant has been selective in his use of this document.

6.18 Paragraphs 12 to 14 covering Economic Development do support increased growth in the rural areas. However, the section quoted, goes on to state "----- and seek environmental enhancement through development at every opportunity ". The proposal is not considered to be an environmental enhancement for the area and will detract from the surrounding landscape.

6.19 Paragraphs 15 and 17, relating to Diversification, go onto more fully explain the forms of diversification considered appropriate. In these it is clear diversification should be complementary too the existing business and carefully targeted. Similarly sustainability and readily available access are key consideration. The present proposal is relatively remote, doesn't relate to the farming use of the site and the applicant has failed to clarify his markets. Therefore, it is considered that the proposal is contrary to the guidance in SPP15.

Planning Advice Note 73 (PAN73) – Rural Diversification

6.20 It is considered that the applicant has been somewhat selective in his use of his document. The site is located within an accessible rural area, shown in the diagram contained in paragraph 8. However, this definition relates to the proximity of the site to small towns which have a population of between 3,000 – 10,000 people. The applicant admits it is close to the defined remote rural area and is on the edge of the area. The document goes on to state at paragraph 14 and 15, the number of ways planning can support rural diversification:-

- Promoting diversification through development plans.
- Giving sound and helpful advice.
- Encouraging sustainable diversification.
- Addressing issues of accessibility, infrastructure, scale and design.
- Recognising individual circumstances.

6.21 As stated earlier the Council consider they have assessed the proposal in relation to PAN73 and given the individual circumstances of the application and the question of sustainability, scale and design, the scheme would be detrimental to the surrounding area.

Planning and Waste Management NPPG10

6.22 In terms of this policy guidance, it is clear that the Council has carried out the provision of appropriate waste sites through the Area Waste Plan and as stated earlier consider sufficient capacity exists within the Council's area.

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 As indicated in the report, the application is considered to be largely contrary to the terms of the Development Plan. Therefore, it should be refused unless material considerations indicate otherwise. The material considerations on Section 6 are not of sufficient weight to merit approval of the application.

8.2 Although the applicant is claiming that the uses proposed form an acceptable type of diversification from his main business of farming, as stated, it is considered that the principal recycling facility is clearly contrary to policies in the Development Plan, fails to satisfy the sustainability requirements for such a proposal and the proposed landscaping, will result in a significant, adverse, visually prominent feature within the landscape.

8.3 In terms of the retail and the heritage centre, it is considered that these uses should be located within the defined settlement. Approval of these elements could undermine the aims of the development plan, to locate these uses within the towns and to help sustain the local economies.

9. RECOMMENDATION

9.1 It is recommended that the Planning Application be refused in accordance with the reasons indicated on the attached sheet. It is further recommended that, due to the retrospective nature of parts of this proposal, enforcement action be authorised to require the cessation of all unauthorised activities on site.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Economic Development it will require to be referred to the Principal Planning Committee, as there would be a significant breach of Council Policy.

Alan Neish
Head of Planning and Economic Development

16 April 2008

WS/KW

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Consultation Responses.
3. Letters of Objection.
4. Adopted East Ayrshire Local Plan (2003).
5. Statutory Notices and Certificates.
6. Relevant Planning applications:
7. Applicant's Supporting Statements.
8. Planning Application 07/0621/FL.
9. Planning Application 06/0301/FL.
10. Planning Application 05/0287/FL.
11. Planning Application 05/0207/FL.
12. Planning Application 05/0132/LD.
13. Planning Application 02/0431/AD.
14. PAN63: Waste Management Planning.
15. PAN73: Rural Diversification.
16. SPP15: Planning for Rural Development.
17. NPPG10: Planning and Waste Management.

Anyone wishing to inspect the above papers please contact William Stewart,
Principal Planning Officer, on 01563 578165

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application no: 07/0190/FL

Location	THREEPWOOD FARM SORN ROAD GALSTON, AYRSHIRE KA4 8ND
Nature of Proposal:	RECYCLING FACILITY AND YARD, POLYTUNNELS AND ANIMAL FEED STORE, CHANGE OF USE OF EXISTING BUILDINGS TO OFFICE, SHOP CAFE, HERITAGE CENTRE, NEW ACCESS ROAD, TRAFFIC CALMING AND LANDSCAPING
Name and Address of Applicant:	JAMES GIBB GIBB OF GALSTON THREEPWOOD FARM SORN ROAD GALSTON AYRSHIRE KA4 8ND
Name and Address of Agent	

DPO's Ref: BS/KW

The above FULL application should be refused subject to the following on the following grounds..

1. The development is considered to fail to satisfy the sustainability aims of Policy TRANS1 of the Ayrshire Joint Structure Plan 2007, given the rural location of the site.
2. The development does not comply with the requirements of Policy ENV1 of the Ayrshire Joint Structure Plan 2007 and Policies ENV12 and ENV13 of the Adopted East Ayrshire Local Plan. Given the topography of the site, the development will be visually intrusive and detrimental to the distinctive landscape setting of the area.
3. The development is considered to be contrary to Policy ECON10 of the Ayrshire Joint Structure Plan 2007, policy CS4 of the adopted East Ayrshire

Local Plan and the Council's Area Waste Plan, as it fails to accord with their environmental, sustainability and transport aims.

4. The development is considered to be contrary to Policies SD1, SD2, SD3 and IND10 of the adopted East Ayrshire Local Plan as it fails to substantiate a site locational need for the development.

5. The development does not comply with the requirements of Policy IND6 in the adopted East Ayrshire Local Plan as it fails to establish a locational need, consider alternative sites, or to satisfy the transportation and sustainability aims of the policy.

6. The development does not comply with the requirements of Policy RTC5 as the scale of retail development is not appropriate to the rural location or ancillary to the existing authorised uses.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**