

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 25 APRIL 2008

**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 (IN RETROSPECT) AT THREEPWOOD FARM, SORN ROAD, GALSTON.
BY MR JAMES GIBB.**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The applicant is applying retrospectively for the change of use of the farm buildings for the storage of vehicles, equipment, tools and materials; and the operation of a landscaping, fencing and site clearance business.

1.2 The application was submitted following the service of an enforcement notice in respect of all the aforementioned, unauthorised activities.

1.3 The applicant has indicated that both the existing and proposed access to this business are through his other operations to the north, along a still to be approved and constructed, new 6.0 metre wide access road.

2. RECOMMENDATION

2.1 It is recommended that the Planning Application be refused for the reasons indicated on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in the report, the application is considered to be 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.

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.

EAST AYRSHIRE COUNCIL

NORTHERN LOCAL PLANNING COMMITTEE: 25 APRIL 2008

**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 (IN RETROSPECT) AT THREEPWOOD FARM, SORN ROAD, GALSTON.
BY MR JAMES GIBB.**

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 the proposal raises significant issues which merit determination by Committee.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises some of the existing buildings immediately to the rear of the main farmhouse at Threepwood Farm. The applicant has indicated that these extend to some 700sq metres in area, the buildings are clearly former agricultural buildings associated with Threepwood Farm.

2.2 Immediately to the north of these buildings is the applicant's present animal feeds business and beyond this the yard area and associated activities which are presently the subject of planning application 07/0190/FL. The site is located within the main farm complex and is generally surrounded by agricultural land in the applicant's control. The nearest residential property to the site is Threepwood Cottage and garden, to the west of the farm on the opposite side of the existing access track.

2.3 **Proposed Development:** The applicant is applying retrospectively for the change of use of the farm buildings for the storage of vehicles, equipment, tools and materials; and the operation of a landscaping, fencing and site clearance business.

2.4 The application was submitted following the service of an enforcement notice in respect of all the aforementioned, unauthorised activities.

2.5 The applicant has indicated that both the existing and proposed access to this business are through his other operations to the north, along a still to be approved and constructed, new 6.0 metre wide access road.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Galston Community Council – object to this proposal on the following grounds:-

1. The development is totally inappropriate to the area, in land designated as agricultural.
2. The visual impact on the area would be horrendous.
3. No environmental audit has been supplied with the application.
4. The increased volume of traffic on the country roads is unacceptable.
5. Concern over the disposal of non-reclaimable items.

The business operates from inside the existing buildings and therefore, will not result in the loss of agricultural land nor will it be visually prominent. The concerns about the increase in traffic are understandable and noted.

3.2 Scottish Power - Advise that they have no objection in principle to the proposal, however, they have both underground apparatus and overhead cables in the area. Therefore, they reserve the right to protect and/or deviate this equipment at the applicant's expense.

Noted.

3.3 East Ayrshire Council Roads and Transportation Division – recommend refusal of the application unless the road improvements associated with planning application 07/0190/FL are applied to this application.

In addition the access points adjacent to these buildings onto the adopted road must be closed as the road and junction are not suitable for commercial vehicles. Alternatively the road improvements specified for 07/0190/FL should be extended to include the present application site and a suitable junction constructed for commercial vehicles.

The submitted plans do not show the existing access to these buildings from the existing access road to the west of Threepwood Farm. Both plans indicate the use of the new internal roadway, yet to be approved, for HGV's to the north of the farm.

In discussions, the applicant was unwilling to extend the existing adopted road to access points on the existing track, but has also failed to incorporate and extend the roads proposals advocated for his other planning application 07/0190/FL, to satisfy the traffic safety concerns of the Roads Division.

3.4 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 Saturday, and no noisy work on a Sunday.
2. Noise from the works during construction and subsequently during their operation should be at such a level as will not cause the underlying background noise level LA901 hour to rise by more than 3dB.
3. Hours of operation of the business should be restricted to 7am – 7pm.
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. All drainage associated with the development should be completed to the satisfaction of Scottish Water and/or SEPA.

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.

3.5 Scottish Environment Protection Agency – Advise that although they originally objected to this proposal, following clarification of the proposal, they now remove their objection, provided the following requirements are satisfied:-

Waste Management – SEPA has reviewed the submitted additional information and it understands that the site boundaries of planning applications 07/0190/FL and 07/0621/FL are located adjacent to each other without overlapping. Moreover, the applicant has explained that application 07/0621/FL is only proposing the change of use of existing buildings into storage for vehicles, equipments, tools and hardware used for the landscaping and contracting business. In his letter, the applicant has clarified that the proposed site clearance business consists of external work involving clearing of customers' premises outwith Threepwood Farm. At this stage, we would note that its not clear whether the waste material cleared from customers' premises is proposed to be stored within the site of application 07/0621/FL or not. In view of this, the applicant should be aware that storage of such waste at this site is likely to require authorisation from SEPA under the Waste Management Licensing Regulations 1994. The applicant should also note that SEPA may only consider applications for waste management licences once that planning permission has been granted.

Surface Water – Advise that if planning permission is granted that a condition be imposed to collect and treat surface water from the site, in accordance with the principles and techniques detailed in the Sustainable Urban Drainage System (SUDS Manual (C967)).

Bio-diversity – Suggest that the applicant discusses the details of the proposed wetland with the relevant Department within the Council in view of the objectives of the Local Biodiversity Action Plan.

SEPA have now removed their objection subject to the aforementioned requirements being satisfied. It is considered that should consent be granted, these concerns could be addressed through the imposition of appropriate planning conditions and notes.

4. REPRESENTATIONS

Objections have been received from seven parties and from the Galston Community Council, as detailed in Section 3. The objectors raise the following concerns,

- 4.1 Object to the establishment of a 'Site Clearing' business on a site in a Rural Protection Area.

Noted.

- 4.2 The proposal is similar to the applicant's other planning application 07/0190/FL and this is an attempt to get a 'back door' approval for the operation of a waste transfer station on this site.

This proposal is significantly smaller than the applicant's other planning application, although the activity on site has commenced prior to the consideration of this application.

- 4.3 There is no local or community need for such a business.

The applicant has failed to clarify the extent of his market for this business.

- 4.4 There is no description of how and where the material from the 'site clearing' is to be stored and processed and no limitation placed on the type of material to be brought onto the Threepwood site. This is wholly unacceptable and a clear description of how the material is to be handled and strict limitations as to the type of material imported need to be made.

The site clearing operation will undoubtedly link into the activities proposed under application 07/0190/FL.

- 4.5 It is understood a waste processing licence application will need to be made to SEPA to allow such activities on site.

The applicant has applied to SEPA for a licence and determination of that application is being withheld pending the outcome of this application and application 07/0190/FL.

4.6 The local roads are not of sufficient size to accommodate the extra vehicle activities that these businesses would bring into the area. In fact the road to Threepwood cannot handle even the current approved business activities. The increase in traffic flow is causing difficulty for residents and further destruction of the roads and verges in the area.

As stated in Section 3 of this report the Roads Division have recommended refusal of this application unless certain roads improvements are undertaken.

4.7 Object to Threepwood Farm being used as an industrial site on a Greenfield site without any planning permission.

Noted.

4.8 Concerns have been raised concerning the noise from skip lorries at present going to and from Threepwood Farm.

In the event of planning consent being granted, the question of any noise nuisance arising for the site would be a matter for the Council's Environmental Health Division to deal with.

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).

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 peripheral position of the application site, is considered to fail to satisfy the sustainable aims embodied in this policy.

5.3 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 in scale nor in keeping with the character of the surrounding area.

5.4 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 extent of his working area, means that it is likely to be contrary to the principles of sustainability.

5.5 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.

5.6 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 in 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. 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.

5.7 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 entirely within the Rural Protection Area.

5.8 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) 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.***
- (v) The proposal will not result in the loss of public amenity open space.***

The proposal is considered to be contrary to the majority of the criteria contained in this policy.

5.9 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 applicant does not provide enough information to satisfactorily demonstrate a site specific locational need.

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 and the impact on the amenity of the area.

Consultations responses

6.2 These are noted in Section 3 of the Report wherein the Community Council support refusal of the application on traffic safety grounds.

Representations

6.3 The representations have been summarised in Section 4 of the report and are considered to be supportive of the road safety 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 16/0/2006.

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 09/0/2006.

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 2008.

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 being amended several times, 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.

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 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.

9. RECOMMENDATION

9.1 It is recommended that the Planning Application be refused for the reasons indicated on the attached sheet.

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
JL/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. PAN73 Rural Diversification.
8. PAN63 Waste Management Planning.

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: 07/0621/FL

| | |
|--------------------------------|---|
| Location | THREEPWOOD FARM SORN ROAD THREEPWOOD FARM, SORN ROAD, , GALSTON, AYRSHIRE KA4 8ND |
| Nature of Proposal: | CHANGE OF USE OF FARM BUILDINGS FOR STORAGE OF VEHICLES, EQUIPMENT, TOOLS AND MATERIALS AND THE OPERATION OF LANDSCAPING, FENCING AND SITE CLEARANCE BUSINESS |
| Name and Address of Applicant: | JAMES GIBB THREEPWOOD FARM SORN ROAD GALSTON AYRSHIRE KA4 8ND |

Name and Address of Agent

DPO's Ref: AUSTIN COOKE/KW

The above FULL application should be refused for the following reasons.

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 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.
3. 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.

**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.**