

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 6 MARCH 2009**

**08/0734/FL: PROPOSED TROUT FISHERY INCLUDING ACCESS, PARKING,  
TIMBER PAVILION AND TOILET FACILITIES  
AT GRASSYARDS, A719, WATERSIDE  
BY MRS A STEVEN**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 The proposal is for the creation of two fishing ponds, car parking, access and a timber pavilion and chemical toilets. The two ponds combined have an area of 9, 883m<sup>2</sup> with the lower pond (pond 1) which is nearer the A719 forming the largest part of this at 6, 957m<sup>2</sup> with a water level of 144.6 metres above ordnance datum. This pond is roughly circular in shape with the west bank running approximately parallel with the A719. The second pond has a proposed area of 2,926m<sup>2</sup> with a water level 2.4 metres higher than the larger pond at 147 metres above ordnance datum. This pond is longer and narrower than pond 1 and runs in an approximate south west to north east direction. Both ponds are proposed to be two metres in depth on average with the lowest point of pond 1 at 3.4 metres deep and pond 2 at 2.87 metres deep. There are some proposed levels increases, predominantly around the west and south western corner of the site ranging from 0.049 metres near the access to 1 metre in height to the west of pond 1. It is envisaged that a large part of the excavated material will be removed from the site resulting in approximately 750 lorry loads of material leaving the site during construction equating to approximately 2 lorry loads per hour.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of the report, the application is considered to be largely compliant with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 The consultation responses do not indicate that the application should be refused and conditions could address the points that they have raised. The objectors have raised various matters covering for the most part concerns regarding road safety, visual impact, various environmental impacts during construction and operation, water supply and competition of fisheries in the area. It is considered that these points do not carry sufficient weight to allow a recommendation of refusal to be made as the various impacts could be controlled through mitigation and planning conditions.

3.3 This view is reinforced by the relatively positive responses from consultees such as the Roads Division, Economic Development, SNH, SWT, RSPB, SEPA and Environmental Health. The planning history of the site and in particular the appeal of the previous proposal raised issues that required to be addressed in any resubmission. It is considered that the applicant has addressed the main concerns raised by the Reporter through alterations to the ponds, site layout, the site access and the nature of the business itself. Therefore this proposal is a better scheme than that previously submitted and will be an appropriate use in the rural area with minimal adverse impacts to the amenity of the surrounding area.

#### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development on the basis that the principle of the development was unacceptable, then the application will require to be referred to the Principal Planning Committee as the principle of the development is in accordance with the Adopted East Ayrshire Council Local Plan.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

**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 AREA LOCAL PLANNING COMMITTEE: 6 MARCH 2009

**08/0734/FL: PROPOSED TROUT FISHERY INCLUDING ACCESS, PARKING,  
TIMBER PAVILION AND TOILET FACILITIES  
AT GRASSYARDS, A719, WATERSIDE  
BY MRS A STEVEN**

### 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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation, as it is subject to Environmental Impact Assessment and is also subject to more than ten objections.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The site, of some 4.4 ha, is a narrow wedge shaped grazing field, bounded to the west by the A719 road, where a hawthorn hedge forms the majority of the boundary, except for a gap at the northern end. The north of the site is bounded by the Grassyards Lane beside which runs the Grassyards Burn. To the south, east and south east of the site is other farmland on slopes generally rising away from the site. The site is bounded by various hedges and trees some of which are adjacent to but outwith the site. The existing site is 144.3 AOD at the western end and 149 AOD at the eastern end.

2.2 **Proposed Development:** The proposal is for the creation of two fishing ponds, car parking, access and a timber pavilion and chemical toilets. The two ponds combined have an area of 9, 883m<sup>2</sup> with the lower pond (pond 1) which is nearer the A719 forming the largest part of this at 6, 957m<sup>2</sup> with a water level of 144.6 metres above ordnance datum. This pond is roughly circular in shape with the west bank running approximately parallel with the A719. The second pond has a proposed area of 2,926m<sup>2</sup> with a water level 2.4 metres higher than the larger pond at 147 metres above ordnance datum. This pond is longer and narrower than pond 1 and runs in an approximate south west to north east direction. Both ponds are proposed to be two metres in depth on average with the lowest point of pond 1 at 3.4 metres deep and pond 2 at 2.87 metres deep. There are some proposed levels increases, predominantly around the west and south western corner of the site ranging from 0.049 metres near the access to 1 metre in height to the west of pond 1. It is envisaged that a large part of the

excavated material will be removed from the site resulting in approximately 750 lorry loads of material leaving the site during construction equating to approximately 2 lorry loads per hour.

2.3 Both ponds would be filled from the Grassyards Burn on a valve controlled basis via a single 110mm diameter pipe. The abstraction rate and height of the pipe is set by SEPA to maintain flow rates in the burn. Water first flows to pond 2 and from there to pond 1 by gravity. Each pond will also have emergency outflows set above the controlled water level for periods of exceptional rainfall. The main outflow will be from pond 1 to the Grassyards Burn.

2.4 Access to the site is taken from the A719 at the north west of the field. Parking is provided for 27 visitors, two of which are disabled spaces, and for three staff members. These spaces are located parallel to the A719 behind the existing hawthorn hedging forming the boundary of the site with the A719. The hedge will be maintained at 1.8 m high. The applicant proposes a small timber pavilion from which the fishery will be run with three chemical toilets (one suitable for disabled access) adjacent to the pavilion in the south western corner of the site. The chemical toilets will be emptied by tanker when required.

2.5 The fishery will be run on the basis of fishers obtaining relevant permits and natural bait (if necessary) from staff, fishing the ponds and then recording catches with staff prior to departure.

2.6 This planning application is an amendment to an earlier planning application which was refused at Planning Committee and was subsequently refused on appeal. The main amendments relate to the reduction in number and area of ponds from three ponds to two, and 14723m<sup>2</sup> to 9883m<sup>2</sup>, reduction in the provision of parking from 69 spaces to 30 spaces, a revised access location and a more substantial level of information concerning environmental impacts and improvements.

### **3. CONSULTATIONS AND ISSUES RAISED**

3.1 East Ayrshire Council's Roads and Transportation Division have assessed the Transport Statement undertaken by Faber Maunsell on behalf of the applicant and the construction method statement which includes details of the soil to be removed from the site and have raised no objections to this application subject to a condition requiring that the access and service layby be constructed to adoptable standard prior to any other work commencing within the site. Furthermore they advise that the applicant should be informed that a road opening permit will be required to be obtained from Roads Division prior to the work commencing on the access and layby.

***Noted. An appropriately worded condition could be attached to any grant of planning consent to ensure that the access and service***

**layby were constructed prior to any other works commencing. A note could be attached to any consent to advise the developer of the requirement for a road opening permit.**

3.2 Moscow and Waterside Community Council has objected to this development on the following grounds:-

3.2.1 Much of the traffic on the A719 travels in excess of the speed limit. The proposed entrance would be in close proximity to the existing crossroads and dip and would present a serious road hazard on a stretch of road. This would be especially dangerous when vehicles entering the site from the north were waiting for the south bound traffic to pass before they could gain access.

***In terms of the road safety aspects, it is noted that the Roads Division has offered no objection and consider that the proposed access and service layby is sufficient for this development. The Transport Statement submitted by the applicant identified that the A719 is a fast road with some drivers breaking the 60mph speed limit, as noted by the Community Council, particularly with southbound traffic. To take account of this issue the access position has been located to achieve maximum sightline requirements of 215 metres by 2.5 metres. In relation to the waiting traffic scenario raised by the Community Council, it is noted that south bound traffic currently waits to turn right onto the C10 road therefore there is a precedent of traffic waiting to turn off the A719 near this location. It should be noted that vehicles travelling in excess of the relevant speed limit on the public highway would be a matter for the Police. Given the findings of the Transport Statement and the concerns of objectors, the Planning Authority has undertaken to write to Strathclyde Police to highlight this matter.***

3.2.2 The A719 is regularly used as a diversion for traffic if there is an accident on the A77 or M77 and at these times it is not uncommon for the amount of traffic to more than double.

***This point is noted however it is considered that any such diversion is not 'regular' as advised by the Community Council and would last relatively short periods of time until any accidents are cleared from the M77/A77.***

3.2.3 The existing water pipes, although for a private water supply, must be protected as this is the only water to two dwellings.

***Water supply to property is a private legal matter between the parties involved and therefore is not a material planning consideration.***

3.2.4 There is very little water in the Grassyards Burn unless there has been very heavy rainfall. After such rain the water soaks away very quickly. Therefore we are concerned that any use of this burn will have a detrimental effect both in the area of the proposed fishery and further downstream.

***Scottish Environment Protection Agency has not raised any concerns with regard to water flows at the Burn. The pipe to control the abstraction rate is set by SEPA to ensure that sufficient flow is maintained to the burn with the excess water flow running to the ponds. The environmental impact assessment indicates that sufficient water flows through the burn to sustain both the burn and fishery operation and that there should be no negative downstream impacts from the fishery use.***

3.3 East Ayrshire Council's Environmental Health Department has no objection however does offer comments regarding construction working times, noise levels, waste materials, identifying private water supplies and potential contamination.

***Noted. Appropriate conditions or notes can be attached to any consent to cover the points relating to working times, waste materials and potential contamination. Identifying private water supply is a private legal matter between both parties and would not be an appropriate planning condition, however, a note can be added to any consent granted advising the developer to contact Environmental Health to discuss this matter further. With regard to noise levels during construction, it is considered that an appropriate planning condition restricting working times would allow undue noise and disturbance to the surrounding area to be contained to normal working times.***

3.4 Scottish Environment Protection Agency offer no objection to the application and advise that a number of aspects of the development will require to be authorised by SEPA to comply with The Water Environment (Controlled Activities) (Scotland) Regulations 2005 including the proposed abstraction, impoundment and associated discharge within the proposals. SEPA also make advisory comments regarding foul drainage for any permanent site toilets, oil storage and construction and pollution prevention comments.

***The points raised by SEPA can be covered by advisory notes to any consent. It is particularly noted that SEPA maintains control and authorises the abstraction rates from the Burn to the ponds.***

3.5 Scottish Wildlife Trust have no objections to the proposed development although advise that any tree planting should be done using only native tree

species and that the management of the fishery should regularly undertake water sampling of the burn close to the exit from the trout fishery.

***Noted.***

3.6 Royal Society for the Protection of Birds have no comment to make on the application.

***Noted.***

3.7 Scottish Natural Heritage has no objection to the application subject to conditions including: the burn corridor should be protected during all construction periods by fencing off the area, replanting of vegetation should be species of local provenance, fishery staff should log all otter sightings or other evidence of otter activity and submit these to the local authority. SNH should be contacted for advice if there are cases of otter mortality on the A719. Furthermore they recommend that additional measures should be tested to deter otters including alarms, otter fencing or free ranging dogs, construction pipes should be capped at the end of each day. Development of the unused parts of the site as a wildflower meadow should be explored and incorporated as part mitigation for the development.

***Noted. The protection of the watercourse during construction, replanting comments and capping of pipes could be conditioned to any consent granted. The other points raised by SNH could be attached as notes to any consent to encourage good management of the site in terms of recording and protecting otter activity and wildlife diversification measures.***

3.8 Scottish Water has no objection to the application although advise that this does not guarantee the developer a connection to their infrastructure and the developer may be required to undertake works on the local water network to ensure there is no loss of service to existing customers.

***Noted.***

3.9 Ayrshire Rivers Trust has not responded to their consultation request although it should be noted that they have submitted information with the EIA and have provided further clarification to the points made with the EIA.

***Noted.***

3.10 Economic Development Department has no objection to the proposal and has advised that rural based business developments such as the one proposed offer the prospect of a benefit to the local economy in terms of direct employment as well as indirect employment that would result from the boost to the areas

tourism product. They also note that the proposed bait and fly fishing use does not necessarily make the proposal a more commercially viable venture although this does differentiate it from other existing businesses in the area and suggests that the proposal will target a partially different audience from those of the competitors. Consequently, the proposal may lead to a net increase in the number of visitors to the area and will not necessarily undermine the performance of other existing facilities.

***The response from the Economic Development Department indicates that the presence of other local fisheries will not necessarily make this venture unviable nor will it make the existing fisheries unviable. It is considered that the response suggests that the proposal will improve tourism in East Ayrshire and will result in employment opportunities which would both be of benefit to the local area.***

3.11 Access Panel has requested the provision of the following: an accessible portaloo, accessible benches within the picnic area, occasional seating around the ponds and level access to the timber lodge.

***The comments of the Access Panel with regard to the provision of accessible outdoor furniture has been addressed by the attachment of an appropriate condition. It is considered that the level access to the timber lodge and accessible portaloo provision are most appropriately addressed through the Building Warrant process, however, a note making the developer aware of this requirement could be attached to any consent.***

#### **4. REPRESENTATIONS**

4.1 The proposal was advertised and has generated fifteen individual objectors in addition to the objection from the Moscow and Waterside Community Council, details of which are addressed at section 3 above. In addition to these objections the application has attracted 33 letters of support from individuals and angling clubs alike as well as a petition containing 264 signatures, also in support of the application.

The letters of objection are based predominantly on road safety grounds, impact on the burn, competition between fisheries, pollution of the Grassyards Burn, visual impact, wildlife, water supply, noise, resubmission of the application and various other issues. The matters are summarised below:-

##### Road safety concerns

4.2 Roads safety issue is still a major concern. The positioning of the access close to such a dangerous crossroads is absurd. Will the Council be liable if a fatal accident occurs at this site?

4.3 This is a fast stretch of road at this point where people speed and the junction is so close to the proposed fishery that people slowing to enter are likely to be hit.

4.4 Safety – Road safety is a major concern for me and indeed it was also a major concern listed by the Reporter in the appeal. The proposal includes a car park for 70 cars which indicates that there will be an increase in the traffic using this stretch of road. The extra cars will bring with them noise and pollution and many more people to the area who will not be contributing to the local economy but only to the owners own finances. This stretch of road is a long straight part of the A719, notorious locally for speeding traffic overtaking other road users. Indeed this week I witnessed a very near miss involving 3 cars on this stretch of road exactly where the proposed new entrance will be, and this was not at peak time. There is also a small crossroads near to the entrance where many drivers are taken surprise by. Visibility is going to be reduced for any traffic emerging from the Raithmuir/Rushaw Farm Road onto the A719 by the car park and landscaping associated with the development. Traffic from the proposed car park will be turning from and onto a busy road near to an existing crossroads and into fast traffic. Pedestrians, horse riders, dog walkers and cyclists use this road too and the situation of this development gives huge cause for concern as I have personally witnessed accidents already at this crossroads. Additional noise and pollution from cars using the facility, especially at night, is also a cause for concern for us.

4.5 The proposed entrance and exit to the fishery is to be sited close to two existing junctions on the A719 and due to the speed and volume of traffic on this road I feel this will be a increased hazard on this road particularly if there are large vehicles visiting regularly to supply fish stocks and to remove waste from the toilets. A local school bus regularly uses the Grassyards lane junction onto the main road.

4.6 Many children, all year round, ride their horses in this area, particularly at the junction of Grassyards Road and the A719. The thought of a young person losing their life for the sake of some fishing is preposterous.

4.7 The roads around this junction cannot cope with the amount of fast and slow moving traffic, leading to more accidents and damage to property.

4.8 The proposed sighting of this is on a road that is constantly used as a speed track by drivers and is so close to a junction that is well used by motorists, farm vehicles, horse riders, dog walkers and the local cycling club. This is assuredly an accident waiting to happen.

4.9 I would bring to your attention the lack of statistics for traffic travelling east and west using the Grassyards junction. As the report shows the average speed of vehicles on the A719 is 60mph, a fast road for any vehicles turning right out of the Grassyards and then immediately left into the fishery access. This would constitute a slow moving vehicle introducing itself into the fast south-bound traffic. Common sense should prevail over statistics and measurements otherwise I can foresee this junction will be an accident waiting to happen. The A719 and Grassyards Road are very busy on occasions when the A77/M77 is closed and detours are directed to use this junction. As an ex-police traffic officer I would still consider this junction dangerous even without the proposed access to the proposed fishery.

4.10 I feel that if this were to go ahead there is no doubt there will be accidents. The thought that someone exiting the Grassyards Road, turning right and then stopping to enter the proposed entrance on the left is ridiculous. The speed of drivers on this stretch of the A719 would mean they would have to brake so hard or swerve around, possibly in the path of a vehicle coming from the Galston direction, sight of which would not occur, due to the rise in the road, until it was too late.

4.11 The speed of traffic is horrendous. This road is regularly used by traffic from the M77 heading toward the Irvine Valley towns. Also this road is used as a diversion when there is a traffic accident on the M77 thus more than doubling the existing traffic. As these accidents usually occur at commuter peak travelling time there is also the driver frustration with which to contend as drivers are not happy at being diverted.

4.12 It is unfortunate that all the accidents do not have a police record number but I can assure you that I have been witness to several bumps and swipes of vehicles.

4.13 Trying to turn into my driveway or access the A719 from same is a daily occurrence and not one which I enjoy.

4.14 During my time here the normal everyday traffic on this road has increased obviously and no doubt will continue to do so. However to construct a business entrance deliberately is reprehensible.

4.15 There is strong objection about traffic turning in and out of the site so near a cross roads where that junction is on a crest making manoeuvres particularly turning west off the A719, difficult. The applicant's traffic consultants accept that the required standard of stopping distances for southbound traffic on the A719 cannot be achieved now the access has been relocated to obtain stopping distances for northbound traffic. It is astonishing to read that the Council's Roads Department has stated that it would accept lower standards

when 85% of traffic speeds on this road are 65mph or higher. Surely on an accident prone road where there is a regular flood approx. 300m north of this site, the Council should take a precautionary approach and err on the side of safety? Particularly in the light of some criticism in the 2007 appeal decision letter where the Reporter believed expert local knowledge of this road, rather than the Council's.

4.16 Two accesses, from the application site and from the side road to the east from Rushaw Cottages, located so close together on the A719 will add to traffic danger on this very fast stretch of road. A considerable number of commuters use the A719, accessing Kilmarnock travelling south by way of the C10 Grassyards Road, so the crossroads is already infamous for dangerous manoeuvres, accidents and many unreported near misses.

4.17 Parking: It is noted that only 30 car parking spaces are proposed although 60 fishermen could be accommodated round the ponds. Previously 69 car parking spaces were proposed for 3 ponds with 14,723m<sup>2</sup> water area. Now 30 spaces are proposed for 2 ponds with an area of 9,883m<sup>2</sup>. Applying the ratio of pond area to parking for last years proposals then using a calculation on that basis one would expect 49 parking spaces, not 30, as currently proposed. If in fact a tearoom is also provided this may attract visitors other than fishers.

***The Division fully acknowledges its requirement to have due regard to road safety and has studied the information submitted by applicant, consultees and objectors. In this instance the applicant has submitted a Transport Statement prepared by Faber Maunsell which provides a justification for the proposed site access. This justification indicates that the access position provides 215 metres forward visibility for the junction in both directions. This is the maximum possible sightline and stopping distance for a road with a 60mph speed limit which meets the East Ayrshire Council Roads Division road safety parameters. Having considered the Transport Statement in relation to the proposal, the Council's Roads Division has offered no objection to the proposal.***

***It should be noted that the Transport Statement indicates that 15% of vehicles exceed 65 mph on this road not 85% as indicated by an objector.***

***Given that the A719 is a relatively busy road with a speed limit of 60mph, it is considered that horse riding around the road junctions and accesses themselves would be minimal at best and the introduction of the fishery use is unlikely to significantly change or alter this situation in any negative way.***

***It should be noted that vehicles travelling in excess of the relevant speed limit on the public highway is a matter for control by the Police. Given the findings of the Transport Statement and the concerns of objectors, the Planning Authority has undertaken to write to Strathclyde Police to highlight this matter.***

***The points regarding the diversion of the M77/A77 are noted however it is considered that any such diversion would last relatively short periods of time until any accidents are cleared.***

***The proposed car parking (at 30 spaces) is significantly reduced from the previous submission however the Transport Assessment advises that after study of likely journey profiles, study of angler behaviour in terms of lengths of stay at the fishery and tendency of anglers to arrive in small vehicle sharing groups more than as individuals, it is likely that the number of spaces will be sufficient. Furthermore the Roads Division has not submitted any objection to parking numbers or to the visits to the site by the tanker to empty the toilets. It should be noted that there is no tearoom proposed as part of this application.***

#### Impact on the Burn

4.18 The abstraction of water from the Grassyards Burn is detrimental to the burn which then flows further downstream into the Craufurdland Water, Kilmarnock Water and finally into the River Irvine.

4.19 The abstraction of water from the Grassyards Burn system must be of a design that is tamperproof once set up and controlled by SEPA if the application goes through. We would require SEPA to monitor the abstraction on a regular basis and if modifications are required we should be informed. During periods of low flow, there must be no water abstracted to maintain flow in the burn.

4.20 Grassyards Burn – At the area of the application the burn only ever runs at more than a trickle when there has been heavy and sustained rainfall. After such rainfall it returns to normal low levels very quickly.

4.21 The Grassyards Burn runs through our farm before joining Craufurdland Water, and any proposed development, which risks removing water from the water course, will seriously affect the burn as a source of water for the grazing stock.

4.22 It is our considered opinion that during summer months the stream will frequently be rendered to a dried up state as water is required from upstream to feed a fishery of which there are already three in the area in close proximity.

4.23 This will mean that we will require to provide mains water for grazing stock, and lose the natural resource that we had previously enjoyed. We are also concerned that septic tank overflow pipes flow into the burn from several properties and without continual running water throughout the year, the burn will become odorous and a potential health risk.

4.24 It will have an adverse effect on the riparian corridor, if water resources are reduced downstream i.e. it is also contrary to ENV19. Grassyards Burn has also already been 'interfered with' recently at Grassyards Farm by what must be culverting under a new hard standing. Apart from removing water from the water course, the question arises, as with salmon farms, about the nature and quality of effluent because it will contain bait/fish food and faeces. It is understood that any overflow would go back into Grassyards Burn, so there could be a risk of contamination in this burn and downstream.

***The principle of abstraction of water from a watercourse is not considered by SEPA to be detrimental to that watercourse. In this instance the abstraction rate is set and monitored by SEPA to ensure the continued flow of the Grassyards Burn; therefore water downstream should be unaffected.***

***SEPA sets the abstraction rate above the 95% of the annual average flow rate thereby maintaining a good flow in the Grassyards Burn and SEPA's mean annual Low Flows 2000 data and Met Office data included with the Environmental Statement indicates that sufficient rainfall will occur that will allow the ponds to be filled from the Grassyards Burn (D2.1).***

***The development is well designed and if carefully managed the risk of contamination to the watercourse is considered to be small. The Environmental Statement (section D3) indicates that the ponds will have regular water turnover, be operated on a 'put and take' basis with no fish feeding or other inputs into the ponds (other than natural baits in the bait pond) and provided the ponds are well designed with a significant element of riparian and aquatic habitats, should be largely self purifying. Ayrshire River Trust (ART) indicate in the EIA that they are not aware of any recorded incidents of water quality problems associated with commercial stillwater fisheries in Ayrshire. Furthermore, the letter of clarification from the ART indicates that algae blooms in stillwaters in Ayrshire are relatively common and are usually short lived phenomena. To overcome any such algae blooms the ART recommend the use of barley straw bales which is a well established technique to control algae growth. The bait pond will, by its very nature, allow individual fisherman to introduce bait however the letter of clarification from ART indicates that provided***

***only natural baits are used and ground baiting is not permitted, there should be little risk of enrichment and thereby stagnation and pollution of the pond.***

***It is proposed that a condition be attached to any grant of planning consent requiring all the mitigation recommendations of the EIA be implemented and maintained thereafter.***

#### Competition between fisheries

4.25 There are two other fisheries in the area. From a commercial point of view it can be seen that this is not a viable business as quoted by the Reporter.

4.26 Diversification in the countryside is the way forward to encourage tourism and create jobs. However this proposal is not diversification but duplication – another point raised by the Reporter in dismissing the previous application. The Reporter also expressed doubt as to how this fishery will bring economic benefit to the local area. There is also no site specific need for the fishery to be here except that this is where the owner has happened to purchase some land.

4.27 I do not see the need for another fishery when there are two others in close proximity and a failed fishery in Galston.

4.28 The viability of a business that replicates two others in the community is more than unlikely. Either this one will fail or it will seriously affect the other two. The Council must take this into consideration and reject the application.

4.29 There is enough supply of trout fisheries within the area and this would have a detrimental effect on our business and employees.

4.30 It could be said that there is an oversupply of such facilities locally, with two fisheries just a mile away to the east and west – at Cowan's Law and at Craufurdland Estate. It is understood that the development approved at the Meadows, beside the A71 west of Galston will also contain a similar facility. However even if this is not a material planning consideration, the Council policy is to support new tourist/recreational facilities, not duplicate them where unnecessary – at the expense of existing local business investment.

***It is noted that there are other fisheries in the area however this does not necessarily render the proposal unviable. Furthermore, the applicant proposes both bait and fly fishing which is not offered at the other fisheries therefore providing for a slightly different sector of the market. The proposal is expected to bring both temporary construction jobs and longer term employment opportunities to the area with up to four jobs sustained by the fishery in the longer term.***

***It should be noted that competition between businesses is not a material planning consideration.***

***With regard to a site specific need, the Environmental Statement identifies four alternative sites including the disused fishery at Galston and all were found to be of insufficient quality in comparison to the application site.***

#### Pollution of Burn and watercourses

4.31 These small ponds stocked with fish could possibly carry disease, possibly transferring downstream into the main river system.

4.32 The bait pond could possibly be the source of disease as there can be no control of what type of bait used and quantities anglers use. Much of this will drop to the bottom of the pond and slowly rot away contaminating the ponds which could be flushed into the burn when heavy rain allows the ponds to flood out into the burn.

4.33 The Kilmarnock Angling Club along with the Ayrshire River Trust have at present applied for funding to build a 'fish pass' on the Kilmarnock water allowing the 'free passage' of migratory fish to ascend upstream to the main tributaries. This fishery could pose a risk to the habitat in the tributaries in the future.

4.34 The new proposal is promoting two ponds, one of which is a bait pond. Do you know what is put in by fishermen/woman as bait? Please believe me it is not eco friendly, and where is the outflow from this proposed shallow pond going? Into the Grassyards Burn, a situation that is not addressed by the extensive report attached to the application.

4.35 The burn is the only natural water that gives our beasts and wildlife sustenance. The local angling authority informed you last year of their plans to bring trout salmon back to the Craufurdland Water, which the burn runs into. We cannot have it polluted.

4.36 Section B1.2.33 of the environmental statement states that there will be no feeding of the fish which contradicts the statement that the smaller pond is to be a bait pond which by its nature means that artificial food will be introduced without any safeguards of amount therefore any excess could find it's way back to the burn and pollute the water lower down the Grassyards burn.

4.37 This burn runs through my land and in the summer can dry up completely. The added pollution to the burn after the water is released is unacceptable.

4.38 As the owner of a still water fishery myself I have to raise concerns on the environmental side i.e. the ponds being only 5ft deep with the very minimum of

fresh water flowing through them. The first period of mild weather with sunlight and algae will form on the still water and consequently will pollute the immediate waterways. The other point is the bait fishing pond which, obviously, will involve the use, for example, peas, sweetcorn, molasses meal along with the usual worms and maggots. I believe this would result in the expediency of stagnation in such shallow, still water.

4.39 The resubmitted plans also allow for two fishing ponds, one of the ponds is designated as a bait pond. This would allow fisherman to throw protein food stuff into the pond which would breakdown to cause a further source of contamination. If the Grassyards Burn were a larger source of water then the problems we have highlighted would not be significant, but the fact is that this is a very small stream and therefore the impact of this fishery will be detrimental in this location.

***The Environmental Statement (section D3) indicates that the ponds will have regular water turnover, be operated on a 'put and take' basis with no fish feeding or other inputs into the ponds (other than natural baits in the bait pond). The ponds are well designed with a significant element of riparian and aquatic habitats, and therefore, should be largely self purifying. It states that once established, the ponds will naturally support a large biomass of invertebrates which will provide food for stocked fish. Therefore there should be no disease in the ponds and thus no downstream transfer of disease. SEPA, SNH and the SWT have assessed the proposal and do not consider this to be a serious risk.***

***It should be noted that the pond depth is not 5ft as described by the objector. The ponds vary in depth with a maximum of 3.4 metres deep in pond 1 and 2.87 metres deep in pond two with an average depth of 2 metres.***

***The bait pond will, by its very nature, allow individual fishermen to introduce bait however the letter from Ayrshire Rivers Trust indicates that provided only natural baits are used and ground baiting is not permitted, there should be little risk of enrichment and thereby pollution of the water lower down the Grassyards Burn.***

***A condition is proposed to be attached to any grant of consent to ensure that only natural bait is used in the bait pond.***

***The clarification letter from the Ayrshire Rivers Trust indicates that algae blooms in stillwaters in Ayrshire are relatively common and are usually short lived phenomena. To overcome any such algae***

**blooms the ART recommend the use of barley straw bales which is a well established technique to control algae growth.**

**It will be very difficult for fish to escape from the pond as the inlet and outlet pipes into the burn are covered by mesh (D3 7.2).**

**The Environmental Statement does not suggest that the fishery will pose a risk to habitat in the tributaries and this is a view shared by the Ayrshire Rivers Trust in their letter accompanying the Environmental Statement and also their letter dated 2 February 2009. It should also be noted that SEPA did not raise any concerns in relation to the habitat of tributaries.**

### Visual Impact

4.40 Visual impact – This is completely the wrong site for the development as detailed by the Reporter. It will detract from the beauty of the natural landscape as the topography of this site is such that it will be visible from the road. Ponds should be situated in a natural hollow and the plans show that in parts the ground level will be raised which again will detract from the natural lie of the land,

4.41 The proposed car parking area will be visible as there is no proposed screening of the cars at the eastern side of the car park – only on the western side along the road. No consideration of these views was made in the environmental statement for this or the previous application. The portakabin that is on site at present (no planning permission ever sought for this) is visible from my cottage.

4.42 The site is not in a natural setting and the raised edges will look very artificial. The burn which runs alongside supports a large amount of wildlife which would be affected by the presence of people fishing nearby. The volume of water in the burn is often very low and further depletion to serve the ponds would affect amphibians and other species in the burn.

***The proposed development is considered to be of significantly lesser visual impact than the previous application considered and refused by the Reporter. The pond number and areas have reduced as has the parking provision and the position and design of the proposed buildings. Combined with the proposed mitigation measures involving planting etc which helps to screen the site further, it is considered that the alterations proposed will not significantly affect the visual quality of the surrounding area. Furthermore it is considered that the use is relatively low impact in terms of disturbance of wildlife at the burn.***

***The site when viewed from the east will have less screening than from other directions however the applicant proposes to break up the car parking by tree planting at various points among the spaces. Given that most views of the site come from the A719 public road direction and that there will be a small number viewing from the east, it is considered reasonable to concentrate the screening towards the main view points. The proposed screening is therefore considered to be acceptable given the minimal views affected from this direction and the distance from the development to the dwellings.***

***The portakabin is not proposed to remain on site and should permission not be granted for this development the matter will be pursued through enforcement action.***

### Wildlife

4.43 Wildlife – The run off and noise from the fishery will adversely affect the wildlife using the burn. As well as the myriad of wildlife which has always used the burn, recently herons have moved into the area. Water voles, a declining species, use it too. In contrast to what is claimed in the Environmental Statement, there are brown hares in the vicinity.

4.44 During the last 10 years we have fenced off part of the burn to create wildlife environments. This project has been partially funded by the Scottish Executive under the Countryside Premium Scheme, and the increase in nesting and feeding birds is extremely evident, and to risk forfeiting 10 years of careful wildlife management to create a commercial fishery is in our opinion sacrificial lunacy, which we believe is inconsistent with current thinking in Scotland, and how we manage one of Scotland's most precious resources, which of course is the countryside environment.

***Other than the construction phase, it is considered that noise at the fishery will generally be minimal with little likely impact to surrounding wildlife. The environmental statement makes no direct mention of heron on the site and SNH, the RSPB nor Scottish Wildlife Trust has mentioned the presence of heron on site. It should be noted that the Environmental Statement does not claim that brown hare are not present but rather advises that density and levels of activity are low (D3.3.11). This is similar with water voles where potential habitat was present but no sign of water vole was found.***

***The area of wildlife management is outwith the application site and will not be affected by the engineering works. Other than the introduction of pipes it is unlikely that the proposal will adversely effect the burn or wildlife around the burn as water flow is***

***maintained through the controlled abstraction rate. Indeed the application proposes planting of further trees and vegetation which should encourage wildlife to the area and the provision of the ponds will further encourage a diversity of wildlife, given the varied habitats that would exist at this location.***

#### Water supply

4.45 Water supply – The area has a history of poor water pressure. I am concerned that the addition of another building will worsen the situation for the rest of us – my house is already receiving water at just the legal minimum of 1 bar. My water supply pipe runs directly under the proposed fishery. Legally the applicant cannot build anything on top of my pipes so how can permission be given for something to be built here – any approved plans cannot be implemented as the ponds and/or paths will be on top of my pipes. Any excavation works will adversely effect these pipes and cut off my water supply. Scottish Water have confirmed that any rerouting will adversely effect our supply. Their advice is that the pipes should not be disturbed. The mains pipe is situated at the corner of the Grassyards Road and the A719 and this is where my supply pipe joins it. Scottish Water says they would have to be consulted by the applicant as they are responsible for the part of our pipes which cross the main highway. This has not been addressed in the Environmental Statement. Any work here will cause noise, disruption and mess.

4.46 The main water supply to the 2 cottages cuts across the field in question and as such we only have a minimum water pressure – any diversion of the pipe would lead to a less than minimum pressure to the cottages. This pipe has been in existence for over 30 years.

***The maintenance of a water supply to property is a private legal matter between the parties involved. The applicant would have to separately resolve such legal issues.***

#### Noise and disturbance

4.47 Engineering works - there will be a huge amount of noise pollution, mess and disruption in a normally very quiet area, caused by the excavation. The adjoining road is not wide enough to take large machinery safely. When constructed the ponds are to be aerated artificially and water pumped from one pond to another. This will again be a source of noise pollution and the applicant is not making any attempt to use sustainable energy sources.

4.48 Noise – The proposal will bring noise, traffic and disruption both during construction and on an ongoing basis thereafter to local residents of which there are quite a few in the vicinity, despite what it says in the Environmental Statement.

4.49 Security – I am concerned about how the site will be secured, especially at night. Any lighting at night in a usually dark area will be very intrusive. If electronic alarms or scarers are installed these could be triggered by wildlife and again disturb the peace of this quiet area. If security guards are to be used there would need to be some facilities provided for them. This could mean that in future an application would be made to build a house as has happened on a nearby fishery. Although not a consideration for planning purposes at this time it is nevertheless a concern for me – housing development by the back door.

***The engineering works will be temporary and an appropriate condition can be attached to any consent to restrict the working times during construction. The Roads Division has not raised any issue with the road width. Water will not be pumped from one pond to another, rather water will flow into pond 2 and thence by gravity to pond 1. The proposed use of the fishery is not considered to be a particularly disruptive or noisy activity and is unlikely to significantly disrupt local residents.***

***The site will be provided with a gate at the main entrance and there is a constant staff presence both day and night. The application proposes no artificial lighting at night. The night staff will patrol the ponds at intervals with torches (B1.2.28 of ES). Were there to be any future application for an on-site house, this would be considered on its merits at that time.***

#### Resubmission of the application

4.50 How can you consider this application for a second time given all the damning evidence from the reporter for the initial application?

4.51 I seem to recall, as a previous objector, that we have been here before. This application was turned down locally and by the Scottish Office Reporter. Why are we wasting time, energy and money on this exercise again? When does no mean no? Do the people concerned not have more important uses for tax payer's money, such as helping the elderly through another long and cold winter?

4.52 This re-application is substantially the same as was refused on 10 September 2007, so under s.39 of the 1997 Planning Act, the Council should surely decline to determine it?

***The planning legislation allows applicants to make revised applications provided they do not mirror the original refused proposal. The applicant has amended the proposal reducing from three ponds to two ponds and has reduced car parking and provided further evidence and information to justify the submission of this application. Each application is treated on its own merits and it is considered that sufficient alterations to the proposal have taken place to allow the Council to consider this fresh application.***

#### Other issues

4.53 Section B1.2.23 states that once the ponds are filled they will be fitted with aerators. I do not see anywhere in the specifications what type of aerators these will be – some types of pumped aerators are extremely noisy.

***The applicant has not provided any details of specific aerators to be used. Given the proposed use, it is considered that any aerators will be relatively quiet however further detail of this issue can be required by planning condition.***

4.54 The use of the water based plants to oxygenate the water is incompatible for fisherman as the volume of plant life to effectively carry out this function would be significant, and only serves to highlight the flaws within this application.

***There is no evidence to suggest that the proposed levels of planting will not be effective in helping to oxygenate the water. The proposal does provide for a degree of planting which will become more established and prominent over time.***

4.55 The Council should consult its Economic Development Division about the viability of this development on this specific site. The issue is highlighted, because when a proposal for a garden centre north of Dunlop was being considered by the Council last year, EAC's Economic Development Division queried the market that such a centre would serve, given similar competitors in close proximity. Viability is crucial when considering new rural businesses on Greenfield sites: the Council should note that the other 2 fisheries nearby are operated in conjunction with other rural diversification businesses within their property/land, thus ensuring survival.

***The Councils Economic Development Department were consulted on this application their response indicates that the presence of other local fisheries will not necessarily make this venture unviable nor will it make the existing fisheries unviable. It is considered that the response suggests that the proposal will improve tourism in East Ayrshire and will result in employment opportunities which would both be of benefit to the local area.***

***The applicant proposes the use of a bait fishing pond which is not replicated at other nearby fisheries thereby providing this proposal with a certain uniqueness and making it easier to allow the proposal to compete with existing business. Viability can be further demonstrated by the large degree of support shown through the number of letters and signatures in support of the application.***

4.56 In summary my objections cover 1. Inappropriate location, because of topography and hydrology 2. insensitive siting 3. potential water problems, due to lack of regular water supply 4. detrimental impact on watercourses 5. poor layout: poor quality of appearance from public roads 6. potential road traffic danger near a junction on a fast trafficked stretch of straight road 7. intrusive use in a quiet rural area.

***The proposed levels information submitted by the applicant indicates that there will be minimal alterations to the topography with maximum level increases of approximately one metre at the south western portion of the site. This combined with appropriate mitigation measures will allow the proposal to sit well in the surrounding topography and minimise visual impact. Given that there will be no alteration to the burn itself other than the installation of pipes and an abstraction rate set at 5% of the flow, there should be no impact on the hydrology of the area or watercourses in particular.***

***The Environmental Statement advises that even during periods of low flow where little or no water enters the ponds, evaporation levels are minimal and when combined with correct baiting, design and planting, will not adversely effect water re-entering the Grassyards Burn after the next rainfall event.***

***Both road issues and noise impacts of the proposal are considered above.***

4.57 NPPG requirements are to provide sustainable green tourism; echoed in Local Plan policy TLR1. This water consuming use takes from the environment but will not give back in quality or quantity, so is unsustainable. The figures on rainfall/evaporation rates should be queried as Met. Office statistics originate from Prestwick with quite a different micro-climate and much less rainfall. There are particular concerns about the effect on Grassyards Burn both with its 500m course beside this site, but also downstream, in terms of impact on its ecology, flow and purity.

***It is unclear how the development only takes from the environment but does not give back in quality or quantity as the objector claims. The proposal improves the provision of purpose built outdoor leisure, recreational and sporting facilities and as such would not be contrary to this particular policy. The Environmental Statement acknowledges that the precipitation statistics originate from Prestwick however it is considered that these figures will offer a reasonable representation of the Grassyards site as there are not significant distances between the two. In terms of the effects on the Grassyards Burn, the findings of the Environmental Statement are such that there should be no negative impact on the Grassyards Burn as a result of the development given the various mitigation proposals and careful management of the site.***

4.58 In terms of Adopted East Ayrshire Local Plan, this development in the Rural Protection area contravenes policy SD3: ii. there is no need to develop on this specific site iii. There is no social, nor economic benefit to the community when they are already provided with such a local facility iv. As it would be a standalone unit unconnected with the remaining land at Grassyards, it does not contribute to diversification of that business: this was one reason for last year's appeal failing.

***The Environmental Report that accompanies the application, details the alternative locations that were considered by the applicant. It is considered that the proposal can be justified in terms of site specific locational need due to the particular benefits of this site.***

***It is considered there are potential social and economic benefits to the community arising from this development such as the creation of jobs. It is noted that the applicant is offering both fly and bait fishing which could attract a wider selection of patrons to the fishery and hence East Ayrshire.***

***It is considered that the proposal contributes to rural land diversification and is an appropriate rural area type use.***

4.59 By the time this application is determined, it is expected that the new Local Plan will, in parts, become a material consideration. In this new plan, the application site is covered by the new Settlement Protection designation which are 'areas of countryside which the Council considers should be protected from sporadic and inappropriate development'

***The Settlement Protection area does not preclude any development taking place within its boundaries. In this instance the proposal is considered to be compliant with the relevant policies of the Alteration to the East Ayrshire Local Plan and therefore would not be described***

**as sporadic or inappropriate development. This is addressed further in Section 6 of the report.**

4.60 Assessment under current tourism policies TLR leads to the following conclusions: TLR 1: 'The Council will support the development of sustainable tourism'. Sustainability? No:- what this development would take from the environment, it will not return in quality/quantity, other than pollution from bait fishing and reduction in flow. TLR 3: This proposal fails criteria;- i) No site specific need:- certainly not for this specific field. ii) it will have an adverse impact on the natural environment. iii) Provision of services is problematic, in particular, water supply and retention. The amount of car parking shown would be insufficient for the number of customers the applicant states can be accommodated. Any overflow of parking cannot be parked on this dangerous stretch of the A719 without severe accident risk. There is no connection to mains drains. 7 ft 6 'portaloos' are not only visually intrusive but the tanker required to empty these would require 4.5m 'x' sightline back from the A719.

***Refer to section 4.57 above regarding TLR 1. It is considered that the proposal does have a site specific locational need as shown through the search for alternative locations in the Environmental Statement and the proposed use of the fishery for both a bait and fly fishing. Furthermore, it is not considered to have an adverse impact on the natural environment as water flow will be maintained in the Burn, the ponds will not pollute the Burn or other waters downstream and various mitigations measures have been proposed to offset visual impacts and the loss of any hedging etc. Turning to service provision, it should be noted that Scottish Water has not objected to this application.***

***The proposed car parking is significantly reduced from the previous submission however the Transport Assessment advises that after study of likely journey profiles, study of angler behaviour in terms of lengths of stay at the fishery and tendency of anglers to arrive in small vehicle sharing groups more than as individuals, it is likely that the number of spaces will be sufficient. Furthermore the Roads Division has not submitted any objection to parking numbers or to the visits to the site by the tanker to empty the toilets.***

4.61 TLR4: This development would duplicate existing tourism provision in the area. Under the emerging local plan policies, the new TOUR 4 states that the Council will encourage and support the retention of tourism related facilities. This development would jeopardise similar local existing fisheries. This new policy also requires any new developments to be such they are not visually or environmentally intrusive – nor detrimental to the character and amenity of the area in which they are proposed. They should not have an adverse environmental impact and should be fully justified in terms of required

infrastructure, access and car parking provision. It is submitted that this development also fails this new TOUR 4 policy as it does with the current local plan policy TLR6.

***Policy TLR 4 refers to accommodation proposals therefore is not applicable. It is considered that the proposal is not visually or environmentally intrusive as explained at section 4.24, 4.39 and 4.26 above. Comment regarding TLR 6 is detailed below at section 5.6.***

4.62 TLR6: This development will be visually and environmentally intrusive. At least 30 m of roadside hedge will have to be cut down for sightlines therefore car parking cannot be camouflaged. These, together with considerable earth moving and ground re-contouring, all add to the detrimental visual impact and driver distraction on fast stretch of the A719. ii) it will have an adverse impact on natural resources, particularly water – on site and up and downstream of the application site. iii) there will be detrimental impact due to siting, access and design

***The applicant proposes various mitigation measures and other recommendations within the Environmental Statement which will help to offset any negative visual or environmental impacts. The proposal is also considered to be of a nature and scale compatible with adjoining activities. It is also considered that the proposal complies with all other relevant Local Plan policies. The no objection consultation response from the Roads Division, SEPA and Scottish Water indicate that access, car parking, infrastructure and services are acceptable for this proposal.***

4.63 TLR10: i) this development has no site specific locational need. ii) it will have an adverse visual impact on landscape character being an intrusive man made feature which will not fit into the local landscape. iii) it is not fully justifiable in terms of infrastructure services and access. It would be an inappropriate development in a sensitive location.

***The Environmental Report that accompanies the application, details the alternative locations that were considered by the applicant. It is considered that the proposal can be justified in terms of site specific locational need due to the particular benefits of this site. The applicant proposes various mitigation measures and other recommendations within the Environmental Statement which will help to offset any negative visual or environmental impacts. The no objection consultation response from the Roads Division, SEPA and Scottish Water indicate that access, car parking, infrastructure and services are acceptable for this proposal.***

4.64 ENV6: It contravenes this policy as it will not improve or enhance the natural environment. Creating ponds, which by their form and layout and necessary bunding, will not fit this development into the contours and surrounding landscape. There is a clear problem with the amount of soil to be excavated, approx 20,000 m<sup>3</sup> which is apparently to be spread over the site thus raising ground levels and providing a bund at the west end of Pond 2 near the road, in order to maintain a 2m water depth overall. The projects agent has now suggested that some soil surplus might be taken off site, but that seems unlikely, given landfill tax charges. Re-contouring is insensitive to the character of the area.

***The applicant proposes various mitigation measures and other recommendations within the Environmental Statement which will help to offset any negative visual or environmental impacts. Some soil will require to be moved off site given that minimal regrading is required, mainly focused on the south western corner of the site where it is proposed to increase ground level by approximately one metre. What should be noted from this is that the site topography, other than the cut element of the ponds themselves, will remain largely similar to current conditions.***

4.65 ENV8: With insensitive regimented parking, shed, portals, removal of hedgerows for access – all these neither ‘reflect not compliment their surroundings’.

***It is considered that adequate screening is provided for the development from all main view points and that any adverse impacts created by the development are offset by the recommendations of the Environmental Statement.***

4.66 ENV10 v) This development will adversely affect the watercourse and riparian area (through water extraction) both on site and downstream where Grassyards Burn flows through an area rich in wildlife. Otters and small amphibians use the water course, heron and curlew too- the latter endangered and protected. The consultants accept that the habitat has potential for one of the most rare of mammals, the water vole. As with curlews and rare brown hare (track marks not indicated on map 1), just because the surveyors did not see all these does not mean they are not present. Bird life known to be present and foraging was essentially dismissed as breeding was not observed/recorded. The EIA did at least acknowledge that the burn side is species rich with 30 vascular plants being recorded on one survey day.

***Policy ENV 10 is not appropriate in this case as the site is not within an area of nature conservation interest. Comments on the wildlife impact are addressed at 4.44 above correct this.***

4.67 ENV13 i) Visual impact from this development will not be 'minimal'. Artificial ponds, paths, serried car parking are totally out of character in this open rural area. ii) It is insensitively sited, in particular the car park and shed cannot be adequately screened from the A719 because the hedge will require to be kept low for sightlines onto the busy A719 Galston-Glasgow Road. (in addition to 30 metres minimum hedge removal – NRC report) Access is on to one of the few straight sections of this busy A class road where the speed limit is 60mph, but is rarely enforced.

***It is considered that adequate screening is provided for the development from all main view points and that any adverse impacts created by the development are offset by the recommendations of the Environmental Statement. As stated in paragraph 4.17 above, the applicant has submitted a Transport Statement providing a justification for the proposed site access which indicates that the access position provides for maximum possible sightlines and stopping distances. Furthermore, the consultation response from the Council's Roads Division has offered no objection to the proposal.***

4.68 ENV 14: The site is not identified in the local plan as a special development opportunity. Indeed it is the most ill-chosen site which has probably been selected because of a willing owner rather than ease of engineering, appropriate contours and adequate water supply.

***It is unclear what point is being made by the objector. The Environmental Statement includes consideration of alternative proposals which have been considered and rejected for various reasons.***

4.69 The applicant has stated that there is sufficient boulder clay to line the ponds. If the site was completely underlain with boulder clay (which is not the case in this area) then the existing surface would show signs of poor drainage, with such an impermeable layer below: it does not.

***The presence of boulder clay does not necessarily equate to poor drainage. Water run off from the existing field could enter the Grassyards Burn running adjacent to the field thereby avoiding the presence of sitting surface water.***

4.70 There is real concern that the amount of mixed material excavated, stockpiles and then re-used on site would cause drainage problems. It would also be impossible to prevent excavated material getting into Grassyards Burn while using large excavators close to its 500m length along the northern site boundary simply by erecting poles and tape along a 1.5m margin.

***There is no evidence to suggest that the works on site will cause particular drainage problems. The fencing of the burn corridor has been suggested by Scottish Natural Heritage and this should provide sufficient demarcation and protection for the burn. Rather than a pole and tape arrangement alone, the applicant proposes the use of 1m high fine mesh 'fence' with bales of hay at the base along the burn boundary. It is considered that this will stop any encroachment of soil towards the Grassyards Burn. A condition is proposed to be attached to any consent granted to further control this issue.***

4.71 If this development was to be approved, it should be reinforced by a s75 Planning Agreement in order to ensure restoration if this fishery was to fail. The Council needs to apply lessons learned from similar previous ventures to prevent dereliction in such circumstances.

***It is considered that such an agreement or a condition would not be appropriate. The site is designed and screened to help to prevent any detrimental visual impact and it is considered that this will not alter significantly during any period of redundancy. In this circumstance, given the appropriate design proposed and the various mitigation measures, any redundancy of the site would be unlikely to lead to an unacceptable impact requiring the site to be restored to its former condition. Separate enforcement powers also exist to tackle sites whose condition has a detrimental impact on the surrounding area.***

## **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 (AJSP) and the Adopted East Ayrshire Local Plan (EALP).

### Ayrshire Joint Structure Plan

5.2 Policy ECON 14 states that the three Ayrshire Councils shall 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

***It is considered that the proposal supports rural diversification and is associated with leisure, recreation and tourism development.***

## East Ayrshire Local Plan

5.3 Policy SD3 states that, within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only in five stated circumstances. Three of these stated circumstances are pertinent to the application, these being where the development:-

- (ii) can be fully justified in terms of site specific locational need; or

***The Environmental Report that accompanies the application, details the alternative locations that were considered by the applicant. It is considered that the proposal can be justified in terms of site specific locational need due to the particular benefits of this site.***

- (iii) can be fully justified in terms of social and economic benefit to the community; or

***It is considered there are potential social and economic benefits to the community arising from this development such as the creation of four jobs. It is noted that the applicant is offering both fly and bait fishing which could attract a wider selection of patrons to the fishery and hence East Ayrshire.***

- (iv) contributes to rural land diversification; or

***It is considered that the proposal contributes to rural land diversification and is an appropriate rural area use.***

5.4 Policy IND6 requires 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 to be justified against a set of eight separate criteria, as follows:-

- (i) locational need;

***The Environmental Report that accompanies the application, details the alternative locations that were considered by the applicant. It is considered that the proposal can be justified in terms of site specific locational need due to the particular benefits of this site.***

- (ii) availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;  
***The proposal requires a rural location; therefore this criterion is not applicable.***
  
- (iii) economic benefit;  
***It is considered that there will be economic benefits associated with the development of a commercial trout fishery such as the creation of temporary construction jobs and thereafter four full time jobs as well as attracting visitors to East Ayrshire.***
  
- (iv) impact on surrounding environment and adjacent uses;  
***It is considered that there will be a minimal impact on the surrounding environment and adjacent uses. The applicant proposes various mitigation measures to minimise visual impact and the use of the site as a fishery is not considered to impact adversely with the predominantly agricultural land surrounding the site.***
  
- (v) transportation and infrastructure implications;  
***The Council's Roads Division and service providers have offered no objections to this development.***
  
- (vi) loss of public amenity open space;  
***N/A***
  
- (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  
***The application site is currently a Category 4.1/4.2 of the Macauley Land Use Research Institute and therefore there would be no loss of prime agricultural land.***
  
- (viii) impact on natural and built heritage resources.  
***The application site does not contain any natural or built heritage sites.***

5.5 Policy IND10 states that industrial and business development outwith settlement boundaries will be acceptable to the Council only one the proposal

relates to one of five stated types of development. Only one of these stated types of development is pertinent to the application, this being:-

- (iii) Sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;

***It is considered that the development of a commercial trout fishery can be associated with the rural activities of leisure, recreation and tourism.***

The policy also requires all proposals for industrial and business developments in the countryside to be justified against a set of six criteria, as follows:-

- (i) their impact on the surrounding environment;

***It is considered that there will be a minimal impact on the surrounding environment. The applicant proposes various mitigation measures to minimise visual impact and the use of the site as a fishery is not considered to impact adversely with the predominantly agricultural land surrounding the site.***

- (i) their impact on adjacent uses;

***It is considered that there will not be a negative impact on adjacent uses. The surrounding land is predominantly agricultural with dwellings located sufficiently distant from the development to avoid adverse impacts.***

- (ii) transportation implications:

***The Council's Roads Division have offered no objections to this development.***

- (iii) infrastructure implications;

***No objections have been raised by any other consultee including Scottish Water.***

- (iv) loss of prime agricultural land; and

***There would be no loss of prime agricultural land.***

- (v) impact on natural and built heritage resources.

***The application site does not contain any natural or built heritage sites.***

5.6 Policy TLR6 presumes in favour of the recreational and sporting use of land in the countryside subject to a set of three criteria being met, as follows:-

- (i) the proposed use is not visually or environmentally intrusive and is of a nature and scale compatible with adjoining activities;

***The applicant proposes various mitigation measures and other recommendations within the Environmental Statement which will help to offset any negative visual or environmental impacts. The proposal is also considered to be of a nature and scale compatible with adjoining activities.***

- (ii) there is no adverse impact on natural or heritage resources; and

***The application site does not contain any natural or built heritage sites.***

- (iii) the proposal complies fully with all other relevant Local Plan Policies and meets all pertinent development promotion criteria relating to infrastructure, services, access, siting, design, landscaping, car parking etc.

***It is considered that the proposal complies with all other relevant Local Plan policies. The no objection consultation response from the Roads Division, SEPA and Scottish Water indicates that access, car parking, infrastructure and services are acceptable for this proposal.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, letters of representation, letters of support, supporting statement, the Alteration to the East Ayrshire Local Plan, the impact on the amenity of the area and the planning history.

Alteration to the East Ayrshire Local Plan (Finalised Version with Modifications)

6.2 Policy SD1 states that the Council will, in line with the provisions of policy STRAT 1 of the Replacement Ayrshire Joint Structure Plan and the Guiding Principles for Sustainable Development detailed in Schedule 1 of that document, adhere to the principles of sustainability in its consideration of all development proposals and will seek to ensure that all new development contributes positively to the environmental quality of the area. In this regard, the Council will ensure that all new development does not have any unacceptable adverse impact on:

- (i) the character and appearance of the particular location in which it is proposed;

***It is considered that the proposal will not negatively impact on the character and appearance of the area in which it is located. The applicant proposes various mitigation measures to minimise visual impact and the use of the site as a fishery is not considered to impact adversely with the predominantly agricultural land surrounding the site.***

- (ii) the environment and amenity of local communities and residents of the area;

***It is considered that the proposal will not impact negatively on the environment of the residents within the area. The applicant proposes various mitigation measures to minimise impacts to the environment. Furthermore, it is considered that there will be a minimal impact to local communities in terms of noise and disturbance.***

- (iii) landscape character and quality; and

***It is considered that there will be a minimal impact on the landscape character and quality. The applicant proposes various mitigation measures to minimise visual impact and the use of the site as a fishery is not considered to impact adversely with the predominantly agricultural land surrounding the site.***

- (iv) natural or built heritage resources;

***The application site does not contain any natural or built heritage sites.***

Policy SD3

6.3 There will be a general presumption that all new development will be located within those area settlements identified with a settlement boundary on the local plan maps, unless the development has a justified need for a countryside location. Development outwith settlement boundaries for which such a need cannot be justified will not receive the support of the Council.

***The Environmental Statement that accompanies the application, details the alternative locations that were considered by the applicant. From the information contained in the Environmental Statement, it is considered that the proposal can be justified in terms of its countryside location.***

#### Policy SD5

6.4 Development proposals outwith settlement boundaries, as indicated on the Local Plan Rural Area Map, will be acceptable to the Council only where the development:

- (i) comprises an acceptable form of residential development in accord with Policies RES 9 and RES10 of the Local Plan; or

***The proposal contains no residential development.***

- (ii) contributes to rural diversification through the development of appropriate industrial, business, tourism, leisure, recreational and other developments with a justified need for a rural location; or

***It is considered that the development of a commercial trout fishery can be associated with the rural activities of leisure, recreation and tourism and the proposal is considered to have a site specific locational need.***

- (iii) constitutes an acceptable form of farm diversification; or

***N/A***

- (iv) is of demonstrated benefit to the vitality and viability of local rural communities; or

***The proposal will provide temporary and full time jobs, provide a form of rural diversification and attract visitors to the area which will help to boost the vitality and viability of the local rural community.***

- (v) provides for the operational needs of agriculture or forestry.

***N/A***

## Policy IND5

6.5 New industrial, commercial and business development outwith settlement boundaries will be encouraged and considered acceptable to the Council only where the proposal relates to:

- (i) Business and Industrial Development Opportunity Sites and those miscellaneous sites with potential for industrial, commercial or business development, as indicated on the Local Plan Rural Area Map;

**N/A**

- (ii) sympathetic industrial, commercial and business developments relating to and associated with / supporting the traditional rural activities of agriculture and forestry and which can be clearly demonstrated to have a specific requirement for a rural location;

***It is considered that the development of a commercial trout fishery can be associated with the rural activities of leisure, recreation and tourism and the proposal is considered to have a site requirement for a rural location.***

- (iii) sympathetic industrial, commercial and business developments including sensitive recreational, tourism, leisure and sporting developments and developments which support the knowledge based economy and the service sector, and which contribute positively to the diversification of the rural economy and can be clearly demonstrated to have a specific requirement for a rural location;

***It is considered that the development of a commercial trout fishery can be associated with the rural activities of leisure, recreation and tourism and the proposal is considered to have a specific requirement for a rural location.***

- (iv) rail freight based industrial uses at existing coal disposal points currently served by rail; or

**N/A**

- (v) acceptable business developments in residential properties or their associated outbuildings in accordance with Policy IND 12 below; or

**N/A**

- (vi) acceptable business developments in terms of farm diversification in accordance with Policy IND 8 below.

**N/A**

Policy IND6

6.6 Outwith settlement boundaries, all proposals for new industrial, commercial and business developments which fall within the categories of development detailed in Policy IND6 (ii) to (vi) above, will require to be justified and will only be supported where:

- (i) the proposed use is compatible with surrounding land uses;

***It is considered that there will not be a negative impact on surrounding land uses as the trout fishery is an acceptable rural type use. The surrounding land is predominantly agricultural with dwellings located sufficiently distant from the development to avoid adverse impacts.***

- (ii) the development has no unacceptable adverse impact on the landscape quality, character and amenity of the surrounding area which cannot be adequately mitigated through the appropriate provision of screen planting or landscaping;

***It is considered that the proposal will not negatively impact on landscape quality, character and amenity of the surrounding area provided the proposed mitigation measures and other recommendations contained within the Environmental Statement are implemented.***

- (iii) the development has no unacceptable transportation or infrastructure implications;

***The Councils Roads and Transportation Section and other service providers have offered no objections to the development.***

- (iv) there is no unacceptable 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

***There would be no loss of prime quality and good quality, locally important agricultural land.***

- (v) the development has no unacceptable adverse impact on natural and built heritage resources.

***The application site does not contain any natural or built heritage sites therefore there the proposal will not have an adverse impact.***

#### Policy TOUR 6

6.7 The Council will assess all applications for tourism related commercial leisure developments against the relevant policies as contained in the Retailing and Town Centre section of the Local Plan. Commercial leisure developments specifically geared towards rural tourism may be considered acceptable to the Council where:

- (i) there is a demonstrated and fully justified specific need for the development in a rural location; and

***It is considered that the proposal has a demonstrated and fully justified specific need for the development in a rural location.***

- (ii) there is no adverse impact on the visual amenity, landscape character or scenic quality of the area concerned; and

***It is considered that there will be no adverse impact on the visual amenity, landscape character or scenic quality of the area concerned provided the mitigation measures and other recommendations contained in the Environmental Statement are implemented.***

- (iii) there is no adverse impact on areas of natural or built heritage resources requiring conservation; and

***There are no areas of natural or built heritage resources requiring conservation affected by this proposal.***

- (iv) the proposal can be fully justified in terms of infrastructure, provision of services, access and car parking provision.

***The Councils Roads and Transportation Section and other service providers have offered no objections to the development.***

#### Consultation Responses

6.8 The consultee comments are relevant to the consideration of this application. The Roads Division have considered that the formation of the

access and service layby is sufficient for the proposal in terms of road safety both during construction and during operation of the fishery. SEPA has advised that they have no objections to the proposal and that they will require to authorise the abstraction, impoundment and associated discharge under the Water Environment (Controlled Activities) (Scotland) Regulations 2005, thereby ensuring that the flow of Grassyards Burn is properly managed and regulated. The comments of the other consultees have raised no objection or serious issue other than the Community Council who have objected to the development.

### Letters of Representation

6.9 The letters of representation, including that of the Community Council, can be grouped under the main headings of road safety, visual impact, various environmental impacts during construction and operation, water supply and competition of fisheries in the area.

The road safety concerns are not shared by the Councils Roads Division and the access has been adjusted from the previous submission to achieve maximum sightline and stopping distance standards. In terms of visual impact, it is noted that various mitigation measures are proposed to help to screen the site. Whilst it would never be possible to screen the site totally, it is considered that the existing screening combined with the various mitigation measures will minimise any adverse visual impacts. The environmental impact concerns raised by the objectors have been considered within the Environmental Statement and combined with adequate conditions to any consent and authorisation from SEPA, are considered to be adequately addressed. The points raised regarding water supply are private legal matters, while the commercial impact of the fishery on other fisheries in the area is not a material planning consideration.

### Letters of Support

6.10 Letters of support from Irvine Water Sports Club, Vale Angling Club, Galston Boys Brigade, East Kilbride & District Disabled Anglers Association, Johnnie Walker Angling Club, Darvel Angling Club, Gartcosh Angling Club as well as individual letters of support from members of the public and a petition containing 264 signatures have been received. Most of the support comes in the form of good experiences at Mr and Mrs Stevens's previous fishery near Drumclog and praise for the applicants support of junior, women and disabled fishers.

### Impact on the Amenity of the Area

6.11 The proposal will alter the appearance of the area and will introduce more people into the area however it is considered that the careful screening and mitigation measures proposed by the applicant will minimise this impact thereby

avoiding any significant detrimental impact on the character or appearance of the area.

### Supporting Statement

6.12 The application is accompanied by a supporting statement highlighting and commenting upon the relevant policies of the Structure and Local Plans and providing an overview of the main elements of the proposal.

### Planning History

6.13 Planning application 06/1070/FL for a proposed trout fishery was refused by the Council at committee on 30 March 2007. This was on the basis that “The operation of the proposed trout fishery would have a negative ecological impact on the site and is considered to be detrimental to the amenity of the surrounding area”

6.14 This refusal was subsequently appealed by the applicant which appeal was dismissed by the Reporter on 10 September 2007. In particular the Reporter noted Local Plan policies SD3 (ii), (iii) and (iv) and TLR6 (i), (ii) and (iii) of particular relevance as well as access concerns.

6.15 In relation to policy SD3 part (ii) the Reporter noted that an existing disused trout fishery had not been considered as an alternative location and that it would be necessary to show that this site and no other was practicable for the proposed use.

***Waterside Fishery has now been included in the consideration of alternative locations for the development. Each site has carefully been considered and rejected for various reasons. The proposed site was chosen because it minimised and mitigated environmental impact in terms of hydrology, ecology, geology and landscape (B2.2.8).***

6.16 Under policy SD3 part (iii), the Reporter noted that it is not the function of development management to protect the business interest of existing enterprises however objectors raised important and unanswered questions about the extent to which the proposed fishery could achieve net social and economic benefits rather than just a local redistribution within an already saturated sector of the labour market.

***Whilst the Reporter noted that competition is not a material planning consideration he raised questions about the social and economic benefit to the community. In response the applicant has advised that the proposal will provide both temporary construction jobs and full***

***time employment opportunity. Furthermore, the use of one of the ponds for bait fishing provides for a new market that will attract a new sector of the market rather than just redistributing the fly fishing market.***

6.17 For similar reasons to SD3 (iii) above, there can only be at best a weak and doubtful justification under criterion (iv) “contributes to rural land diversification”.

***It is considered that the proposed use of the site for both bait and fly fishing provides for diversification.***

6.18 TLR6 (i): The topography is not well suited to the formation of fishing ponds so that the scheme has had to resort to terracing into the gentle slopes, resulting in unnatural landforms well above the level of the burn from which water would be abstracted to fill and maintain the ponds.

***The applicant has altered her proposals reducing the number of ponds from three to two and thereby reducing the area of the ponds from 14,723m<sup>2</sup> to 9,883m<sup>2</sup>. As the pond at the rear (east) of the site has been removed it is considered that the two remaining ponds will not require the same significant degree of terracing nor does water require to be pumped as the layout and levels of the ponds are such that gravity can feed water from pond 2 to pond 1.***

6.19 TLR6 (ii): The favourable ecological assessment is founded on information from SEPA however this information is not based on actual survey and more to the point does nothing at all to satisfy pertinent questions relating to periods of low flow in the very small Grassyards Burn. The material does not consider the effects on water quality and fish health and the possible spread of disease to other locations, when during long hot spells water is not abstracted from the burn to the ponds combined with evaporation rates and concentrations of waste products in the stagnant water would increase. Water thus contaminated would eventually be released when rainfall resumed and no information is presented about whether dilution would necessarily be sufficient or effective in preventing problems for riparian land uses or fisheries downstream.

***The applicant has given significant consideration to this point in the Environmental Statement. This includes details of proposed precipitation levels and evaporation levels to demonstrate the effect of a dry summer on the ponds. Essentially this information demonstrates that while there will be some months where evaporation is greater than abstraction, this will not adversely affect the water quality and thereafter the Burn when the water is returned after a rainfall event. The water quality could be maintained by careful design and management of the ponds where only natural***

***baits are used, adequate aquatic planting is provided and no artificial feeding of the fish is undertaken.***

6.20 TLR6 (iii): The obtrusively unnatural landform in a rural location, with the cramped, visually crude arrangements for access and parking appear to relate to the inherent difficulties of fitting three fishing ponds of the desired sizes, and ancillary features, into a site that is topographically not well suited and probably just too small.

***The applicant has considered these points and as a result has removed one pond from the original site and reduced the area of the pond by nearly 5000m<sup>2</sup>. This has also resulted in a reduction in the number of car parking spaces and the various building such as the timber lodge and chemical toilets have been located in a well screened part of the site.***

6.21 The proposed access to a commercial recreational development where 69 car parking spaces have been seen as necessary would be on a fast stretch of A class road which connects the Irvine valley towns to the M77 and Glasgow, in a dip, very close to an existing crossroads. Having inspected the site and carefully noted the characteristics of the road, I cannot avoid sharing the safety concerns of a former police traffic officer rather than the apparent equanimity of the Councils Roads and Transportation Division.

***The number of parking spaces proposed in now 30. The applicant has altered the proposed site access to take advantage of maximum sightline standards and stopping distances. In this instance the applicant has submitted a Transport Statement prepared by Faber Maunsell which provides a justification for the proposed site access. This justification indicates that the access position provides 215 metres forward visibility for the junction in both directions. This is the maximum possible sightline and stopping distance for a road with a 60mph speed limit under the East Ayrshire Council Roads Division road safety parameters. Having considered the Transport Statement in relation to the proposal, the Council's Roads Division has offered no objection to the proposal subject to the access and layby being formed prior to the commencement of all other development works.***

## **FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in determining this application.

## **CONCLUSIONS**

8.1 As indicated in Section 5 of the report, the application is considered to be largely compliant with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 The consultation responses do not indicate that the application should be refused and conditions could address the points that they have raised. The objectors have raised various matters covering for the most part concerns regarding road safety, visual impact, various environmental impacts during construction and operation, water supply and competition of fisheries in the area. It is considered that these points do not carry sufficient weight to allow a recommendation of refusal to be made as the various impacts could be controlled through mitigation and planning conditions.

8.3 This view is reinforced by the relatively positive responses from consultees such as the Roads Division, Economic Development, SNH, SWT, RSPB, SEPA and Environmental Health. The planning history of the site and in particular the appeal of the previous proposal raised issues that required to be addressed in any resubmission. It is considered that the applicant has addressed the main concerns raised by the Reporter through alterations to the ponds, site layout, the site access and the nature of the business itself. Therefore this proposal is a better scheme than that previously submitted and will be an appropriate use in the rural area with minimal adverse impacts to the amenity of the surrounding area.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Economic Development on the basis that the principle of the development was unacceptable, then the application will require to be referred to the Principal Planning Committee as the principle of the development is in accordance with the Adopted East Ayrshire Council Local Plan.

**Alan Neish**  
**Head of Planning and Economic Development**

DW/IMB

27 February 2009

FV DVM

### **LIST OF BACKGROUND PAPERS**

1. Application Form, Plans, Environmental Statement, supporting statement and Transport assessment.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. Adopted East Ayrshire Local Plan (2003).
6. Ayrshire Joint Structure Plan (2007)
7. Alteration to the East Ayrshire local plan
8. Planning application 06/1070/FL
9. Planning appeal P/PPA/190/164

Anyone wishing to inspect the above papers please contact David Wilson Senior Planning Officer (Acting), on 01563 576779.

Implementation Officer: Dave Morris

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 08/0734/FL

---

Site of Proposal: Grassyards A719, WATRSIDE by Kilmarnock

Nature of Proposal: Proposed Trout Fishery, Including Access, Parking, Timber Pavilion and Toilet Facilities.

Name & Address of Applicant: Mrs A Steven

Name & Address of Agent: Bryce Associates Ltd,  
6 Newton Place  
GLASGOW  
G3 7PR

---

DPO's Reference: DW/IMB

The above full application should be approved subject to the following conditions:

1. The landscaping of the site shall be carried out in accordance with the details shown in figure D 6.9 of the Environmental Statement dated October 2008. The landscaping scheme shall be implemented in the first planting season following construction of the ponds and thereafter shall be retained and maintained in accordance with the approved details.

REASON To ensure the implementation of a satisfactory scheme of landscaping to improve the environmental quality of the surrounding area

2. The recommendations and mitigation measures contained within the Environmental Statement shall be implemented as approved both during construction and operation of the fishery.

REASON: To ensure the implementation of all appropriate mitigation measures to protect and enhance the environmental quality of the surrounding area

3. The service lay-by, access and visibility sightlines for the access to the A719 shall be constructed prior to any works commencing on site, in accordance with the details shown in drawing No. PL-02 dated 09 September 2008.

REASON To ensure that a safe site access/egress is provided during construction and operation of the fishery in the interest of road safety.

4. Notwithstanding the terms of the Town and Country Planning (Control of Advertisements (Scotland) Regulations 1984 no signs shall be displayed on site without the prior written consent of the Planning Authority.

REASON To protect the visual amenity of the surrounding rural area by allowing the Planning Authority to maintain control over proposed advertisements.

5. Details of any proposed lighting to be installed on site shall be submitted to and agreed in writing by the Planning Authority prior to installation. Thereafter any approved lighting shall be retained and maintained in accordance with the approved details.

REASON To protect the amenity of the surrounding rural area by preventing undue light pollution.

6. External construction works and deliveries shall take place only between the hours of 08:00am to 6:00pm Monday to Friday and 08:00am to 1:00pm Saturday and at no time on Sundays.

REASON To prevent undue noise and disturbance to the surrounding area outwith normal times in the interests of the amenity of the surrounding area.

7. Notwithstanding the submitted plans, details of the design and construction of all fences and walls to be erected on the site shall be submitted to and approved by the Planning Authority before any development commences on the site. Thereafter, such fences and walls shall be implemented as approved.

REASON To allow the Planning Authority to control the design and construction of such features in the interests of visual amenity.

8. No supplementary feeding of the fish stock shall take place at any time.

REASON In the interests of the environmental quality of the adjoining watercourses.

9. Natural baits only shall be used in the bait fishing pond and the applicant shall submit a method statement detailing how this will be implemented on site

for the written approval of the Planning Authority prior to the ponds coming into use.

REASON: To maintain good water quality in the ponds and thereby protect the environmental quality of the adjoining watercourse.

10. Details of the surface finish for the car parking area shall be submitted to and agreed in writing by the Planning Authority and thereafter implemented as approved, prior to the car park area coming into use.

REASON: In the interests of the visual amenity of the surrounding area.

11. Notwithstanding the plans and details hereby approved, further details of the proposed aerators including noise and power supply details shall be submitted for the written approval of the Planning Authority prior to the ponds coming into use. The aerators shall thereafter be installed and maintained in accordance with the approved details.

REASON: To prevent undue noise and disturbance to the surrounding area.

12. Notwithstanding the plans and details hereby approved, all pipes shall be capped at the end of each working day during the construction period.

REASON: To prevent otter and other wildlife from entering the pipes during construction thereby minimising the opportunity for wildlife disturbance and fatality.

13. Further details of the proposed picnic area including proposed paths, furniture and landscaping shall be submitted for the written approval of the Planning Authority prior to the ponds coming into use, and thereafter implemented as approved.

REASON: To protect the amenity of the surrounding rural area by allowing the Planning Authority to maintain control over the area.

14. Should the presence of unsuspected contaminated land be found during construction the developer shall advise the Planning Authority immediately and will thereafter provide details of all remedial measures required to address the risk of exposure to key receptors, for the written approval of the Planning Authority. Upon successful implementation of the approved remedial measures, the developer shall submit verification that all works have been undertaken as approved.

REASON: To ensure potential risks arising from contaminated land have been fully assessed and thereafter to provide verification that remediation has been

carried out in accordance with the remediation plan and to the Planning Authority's satisfaction.

15. Notwithstanding the approved plans, no soil shall be stored in heaps greater than 2 metres in height on the site. Details of the location of the heaps shall be submitted to and approved by the Planning Authority prior to the commencement of development approved by this permission and shall be implemented thereafter as approved.

REASON: To protect the visual amenity of the surrounding rural area.

16. The developer of the site shall ensure that adequate and continuing measures are taken to ensure that roads and footpaths adjoining the site are maintained free from mud and other material carried from the site by construction and any other vehicles. Details of this shall be submitted for the written approval of the Planning Authority prior to the commencement of development and shall be undertaken thereafter as approved.

REASON: To prevent the over-carry of mud and debris onto the public road in the interest of road safety.

17. Notwithstanding the plans and details hereby approved, the proposed burn protection mesh shall be supplemented with a post and wire fence details of the position and design of which shall be submitted for the written approval of the Planning Authority prior to the commencement of development. The post and wire fence shall be erected on site prior to any construction works commencing and thereafter be maintained during all earth moving works.

REASON: To provide further protection to the burn during construction works in the interests of maintaining the environmental quality of the burn.

18. Notwithstanding the plans and details hereby approved, the hedge fronting the A.719 shall be maintained to a height of 1.8 m. with the exception of those areas required to form the site access and sightlines.

REASON: To maintain adequate screening of the site in the interests of the visual amenity of the surrounding rural area.

## Notes

1. The developer is advised to contact Scottish Water, Clyde House, 419 Balmore Road, Glasgow G22 6NU to discuss development close to the existing public water main and the need for a separate application/s to connect to the public water network.
2. The developer is advised to contact SEPA's Ayr Team on 01292 294000 at the earliest convenience in order to agree effluent disposal arrangements and consenting issues for this development.
3. The developer should contact the Council's Roads and Transportation Division prior to commencing any work on the service lay-by or within the public road and verges and to discuss appropriate permits for this development.
4. The developer is advised to make early contact with the Council's Environmental health Department with regard to identifying private water supply and discussing methods of protecting such supplies.
5. The developer should be aware of the requirement to provide level access to the timber pavilion and the provision of an accessible portaloo when preparing the submission of his/her Building Warrant.