

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 07 MAY 2004

**03/0658/FL: PROPOSED REMOVAL OF CONDITION 1 OF PERMISSION
99/0504/FL TO ALLOW FOR OPERATION OF BED AND BREAKFAST
ACCOMMODATION
AT BROOMHILL HOUSE, KILMARNOCK
BY MR THOMAS M YOUNG**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This application seeks full planning permission to remove Condition No. 1 from permission No. 99/0504/FL which granted the extension and alteration of the existing workshop to form additional dwelling accommodation. This permission was subject to several conditions of which Condition 1 states:-

“The permission relates solely to an extension to the facilities of the existing dwelling to be used as a “granny flat” for occupation by dependent relatives of the occupants of the main house. Further approval of the Planning Authority shall be required for its use as a separate dwellinghouse”.

The condition was applied to ensure that the development related to accommodation ancillary to Broomhill rather than to the formation of a new dwellinghouse.

1.2 The applicant has further stated that he does not intend to develop a commercial bed and breakfast but seeks to remove condition 1 in order to allow house guests who are not relatives and occasional bed and breakfast in the annex to the main house. The applicant already operates occasional bed and breakfast in the main house and does not intend to dispose of the granny flat as a separate dwelling now or in the future.

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 should be considered against the provisions of the Development Plan. There are no directly relevant policies. The proposal must therefore be assessed against the material considerations as detailed in Section 6 of the report.

3.2 The objector's concerns are noted although are not considered sufficient to merit refusal of this application. The Council's Roads and Transportation Division have objected on traffic safety however their request for a bin storage area and a lay-by are not considered appropriate as the applicant intends to operate the bed and breakfast facility on a basis not requiring planning permission and the increase in traffic will be minimal. If this situation should change and the applicant operate a commercial bed and breakfast facility using more than 2 bedrooms then planning permission will be necessary and issues such as those raised by the Roads and Transportation Division should be considered at that time.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will not require to be referred to the Development Services Committee as it would not represent a significant departure from Council policy.

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.

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Report by Head of Planning, Development and Building Standards

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** This application relates to Broomhill House which is a residential dwellinghouse set within its own landscaped grounds within the countryside to the south of Kilmarnock. The application relates to an existing detached garage with a workshop which was previously extended to form living accommodation and pitched roof above. The site is bounded to the north, south and east by countryside and to the west by the vehicular access road linking into Ayr Road, and by 2 detached residential properties.

2.2 **Proposed Development:** This application seeks full planning permission to remove Condition No. 1 from permission No. 99/0504/FL which granted the extension and alteration of the existing workshop to form additional dwelling accommodation. This permission was subject to several conditions of which Condition 1 states:-

“The permission relates solely to an extension to the facilities of the existing dwelling to be used as a “granny flat” for occupation by dependent relatives of the occupants of the main house. Further approval of the Planning Authority shall be required for its use as a separate dwellinghouse”.

The condition was applied to ensure that the development related to accommodation ancillary to Broomhill rather than to the formation of a new dwellinghouse.

2.3 The applicant has further stated that he does not intend to develop a commercial bed and breakfast but seeks to remove condition 1 in order to allow house guests who are not relatives and occasional bed and breakfast in the annex to the main house. The applicant already operates occasional bed and breakfast in the main house and does not intend to dispose of the granny flat as a separate dwelling now or in the future.

3. CONSULTATIONS AND ISSUES RAISED

3.1 There is no Riccarton Community Council at present with which to consult in respect of this application.

Noted.

3.2 East Ayrshire Council Roads and Transportation Division have recommended refusal of the application as they believe the applicant is intending to operate a commercial bed and breakfast facility from the property and is unwilling to undertake the necessary road improvements in the form of a lay-by at the junction of the private access and the public road. The lay-by is necessary to provide a safe area off-road where the bin lorry can stop and collect the refuse and will accommodate a bin store area adjacent to the lay-by constructed to adoptable standard.

As detailed in Section 2.2 of this report, the applicant is not intending to operate a commercial bed and breakfast. Under the Town and Country Planning (Use Classes)(Scotland) Order 1997, a residential unit with more than 4 bedrooms can use up to 2 bedrooms for bed and breakfast facilities ancillary to the enjoyment of the dwellinghouse without there being a material change of use requiring planning permission. It is not therefore considered to be appropriate to require the formation of a lay-by and bin storage area.

4. REPRESENTATIONS

4.1 One letter of representation has been received and the points raised are as follows:-

4.2 The applicant previously justified that he was entitled to place the granny flat on a long lease through advertisements in the local press because he perceived it to be part of his bed and breakfast business notwithstanding the restriction placed on the property.

Any action by the applicant contrary to the terms of the previous planning permission which was granted consent for the additional

accommodation would be a separate matter. The Committee must address the terms of this application. Any necessity for enforcement action relative to the current consent would be considered having regard to the outcome of the application before Committee.

4.3 It is assumed that the current proposals follow a process previous agreed with the Planning, Development and Building Standards Division to circumvent any planning restriction and to increase the number of flats for letting out at the same time.

The applicant sought pre-application advice relative to this application which is available to any member of the public. Such advice does not guarantee that planning permission will be granted. The information supplied by the applicant does not suggest that the property will be let on a long term basis.

4.4 The Broomhill House caravan parking business creates serious traffic risks on a single track lane and the consequences of any traffic accidents in the lane in the future will be the responsibility of the Division because traffic safety was not taken into account.

East Ayrshire Roads and Transportation Division considered the application and have recommended refusal of the application on traffic safety and capacity of the local road network. The applicant is not proposing a commercial bed and breakfast operation and it is not considered that the level of traffic should greatly increase as a result of this application. If the applicant at a later date sought to operate a bed and breakfast operation and that was determined to require planning permission he would be obliged to make an application and traffic issues would be considered at such time.

4.5 The applicant was allowed to run an unregistered profitable caravan parking business at Broomhill for 10 years without contributing to business rates and you may judge that it is now appropriate for him to establish a property letting business in what was thought to be a restricted planning zone. By defining the use as a 'bed and breakfast' I presume that your division will waive the charging of domestic or business rates on the new accommodation whether or not they are used for long-term letting later.

The applicant was granted a Certificate of Existing Lawful Use on 14 October 2002 relating to the storage of caravans. The matter of whether he should be paying domestic or business rates is not a material planning consideration that can be taken into account in the determination of this application.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan 2003 (EALP).

Approved Ayrshire Joint Structure Plan (AJSP)

5.2 The application does not raise any strategic issues that would require assessment against the provisions of the AJSP.

Adopted East Ayrshire Local Plan (EALP)

5.3 There are no policies in the EALP which would directly affect the determination of this application. Policy TLR 4 supports new bed and breakfast accommodation within existing buildings in a rural location subject to certain criteria; but commercial bed and breakfast accommodation is not proposed in this case.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The material considerations relevant in the determination of this application comprise the consultation responses, letter of representation and the planning history of the site.

Consultation Responses

6.2 The consultation responses are detailed in Section 3 of this report and it is considered that none of the issues raised warrant the refusal of this application. The response of the Roads and Transportation Division whilst noted is not considered to be relevant as the applicant is not intending to operate a commercial bed and breakfast establishment at the premises.

Letter of Representation

6.3 The letter of representation is detailed in Section 4 of this report and the points raised are not considered to warrant the refusal of this application.

Planning History

6.4 The following planning applications relate to this site:-

- 99/0504/FL – Proposed Extension and Alterations to Existing Workshop to form additional dwelling accommodation for Broomhill House. The proposal was granted subject to conditions on 10 September 1999. Condition 1 is detailed in Section 2.2 of this report and the applicant is seeking to remove this condition relative to the restriction on occupancy of the property by dependent relatives of the occupants of the main house.
- 02/0543/LD – an application for a Certificate of Lawfulness of Existing Use for the Storage of Caravans was approved on 14 October 2002, the Planning authority being satisfied that such storage had existed for in excess of 10 years.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the application should be considered against the provisions of the Development Plan. There are no directly relevant policies. The proposal must therefore be assessed against the material considerations as detailed in Section 6 of the report.

8.2 The objector's concerns are noted although are not considered sufficient to merit refusal of this application. The Council's Roads and Transportation Division have objected on traffic safety however their request for a bin storage area and a lay-by are not considered appropriate as the applicant intends to operate the bed and breakfast facility on a basis not requiring planning permission and the increase in traffic will be minimal. If this situation should change and the applicant operate a commercial bed and breakfast facility using more than 2 bedrooms then planning permission will be necessary and issues such as those raised by the Roads and Transportation Division should be considered at that time.

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, Development and Building Standards, the application will not require to be referred to the Development Services Committee as it would not represent a significant departure from Council policy.

Alan Neish
Head of Planning, Development and Building Standards

28 April 2004
(FMF/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Certificates.
3. Consultation Responses.
4. Letter of Representation.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Previous Planning Applications: 99/0504/FL; 02/0543/LD.

Anyone wishing to inspect the above papers please contact Fiona Finlay on 01563 576768.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

03/0658/FL

Site of Proposal: Broomhill House
KILMARNOCK KA1 5LP

Nature of Proposal: Proposed Removal of Condition 1 of
Permission 99/0504/FL to Allow for Operation
of Bed and Breakfast Accommodation

Name & Address of Applicant: Mr Thomas M Young
Broomhill House
KILMARNOCK KA1 2LP

Name & Address of Agent:

DPOs Reference: FMF/MMM

The above FULL application should be granted subject to the following conditions:-

1. Condition 1 of planning permission 99/0504/FL is deleted and shall be replaced with:-

“This permission relates solely to the use of an existing detached building as an extension to the facilities of the original dwellinghouse (Broomhill House). The building shall only be used as additional accommodation to the main house. The further approval of the Planning Authority shall be required for its use as a separate dwellinghouse or as a commercial bed and breakfast premise outwith the terms of Class 9 of the Town and Country Planning (General Procedures Development)(Scotland) Order”.

REASON To ensure that the development relates to accommodation ancillary to Broomhill House rather than a new dwellinghouse which would be contrary to the Development Plan or as a commercial bed and breakfast operation which could require alterations to the local road network and refuse bin collection system.

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VIEWING PLEASE CONTACT (01563) 576790.**