

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE - SITTING AS A PLANNING COMMITTEE - 15 NOVEMBER 2005

DECISION OF THE SOUTHERN LOCAL PLANNING COMMITTEE HELD ON 7 OCTOBER 2005 RELATING TO PLANNING APPLICATION NO 05/0876/OL: PROPOSED CHANGE OF USE OF VACANT GROUND TO CONTRACTOR'S YARD AND ERECTION OF A DWELLINGHOUSE ON LAND AT MUIRKIRK ROAD, LUGAR

Report by the Depute Chief Executive/Executive Director of Corporate Support

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform the Committee of the decision of the Southern Local Planning Committee held on 7 October 2005 regarding the above planning application.

2. BACKGROUND

- 2.1 The Southern Local Planning Committee on 7 October 2005 considered a report dated 25 September 2005 (attached as an Appendix) by the Head of Planning, Development and Building Standards, and agreed that this application be referred to the Development Services Committee with a recommendation for approval on the basis that the proposed development would represent an acceptable departure from the Development Plan (i) in view of the previous uses of the proposed development site, as detailed in Paragraph 6.7 of the report by the Head of Planning, Development and Building Standards; and (ii) the Committee being of the view that the proposed development would not be unduly detrimental to the visual amenity of the rural area and the prominent situation within which it is located.
- 2.2 One objection, from Lugar and Logan Community Council, was submitted in respect of this application. However, the objector was neither present nor represented at the Local Planning Committee meeting and, therefore, there is no requirement for a Hearing at this meeting.

3. FINANCIAL/LEGAL IMPLICATIONS - Nil.

4. POLICY IMPLICATIONS

- 4.1 The Committee are referred to the report dated 25 September 2005 by the Head of Planning, Development and Building Standards, attached as an Appendix to this report.

5. RECOMMENDATION

- 5.1** It is recommended that this Committee consider the planning application with reference to the report dated 25 September 2005 by the Head of Planning, Development and Building Standards and with consideration to the recommendation by the Southern Local Planning Committee as detailed in Paragraph 2.1, above.

Elizabeth Morton
Depute Chief Executive/Executive Director of Corporate Support

11 October 2005
SN/SR

LIST OF BACKGROUND PAPERS

NIL

Any person wishing further information on this report should contact Bill Walkinshaw, Administration Manager, on telephone number 01563 576135.

Implementation Officer: Stuart Nelson, Administrative Officer.

APPENDIX

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 07 OCTOBER 2005

**05/0876/OL: PROPOSED CHANGE OF USE OF VACANT GROUND TO
CONTRACTOR'S YARD AND ERECTION OF A DWELLINGHOUSE
AT MUIRKIRK ROAD, LUGAR**

APPLICATION BY MR. ANDREW MCLEAN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline permission is sought for the change of use of the site from agricultural use to commercial use for the formation of a contractor's yard. Outline consent is also sought for the erection of a dwellinghouse in association with the contractor's yard. The indicative layout plan submitted by the applicant shows the proposed dwellinghouse and its curtilage taking up the greater part of the application site adjacent to the junction of the A70 road with the access road to Holmhead Farm. The plan also shows the provision of a garage/shed building and yard to accommodate the applicant's business that currently operates from a site within Mauchline. The applicant operates a roads and utilities contracting business from the site in Mauchline. The proposed shed is indicated to be 15 metres by 10 metres with a maximum height of 4 metres to eaves. The indicative layout shows the provision of screen planting along the A70 road and access road frontages of the site in order to address issues of visual impact of the proposed development.

1.2 A recent outline application for this development was refused by the Southern Local Planning Committee on 17 June 2005. This current application is in effect for revised proposals as the applicant seeks to address a number of concerns previously indicated, particularly in relation to the siting of the elements of the proposal and their impact on the visual amenity of the area in which the application site is located. The applicant has again submitted a statement in support of his application that is referred to in section 6 of this report.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons listed on the attached sheet.

3. SUMMARY OF ANALYSIS

3.1 As indicated in section 5 of the report, the application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application but it is not considered that these are of sufficient weight to justify a departure from policy in this case.

3.2 The proposed development is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. It is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a detrimental visual impact on the surrounding area.

3.3 There are no significant issues raised by consultees and no third party representations have been received with regard to the proposals. In terms of the indicative layout provided, it is accepted that the revised proposals will assist in reducing the visual impact of the development. However, while the present circumstances of the applicant are appreciated, and notwithstanding the historical information provided by the applicant, it is considered that these material considerations are not of sufficient weight to justify approval of the proposed development contrary to policy.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will require to be referred to the Development Services Committee as it would represent a significant departure from 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.

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 07 OCTOBER 2005

05/0876/OL: PROPOSED CHANGE OF USE OF VACANT GROUND TO CONTRACTOR'S YARD AND ERECTION OF A DWELLINGHOUSE AT MUIRKIRK ROAD, LUGAR

APPLICATION BY MR. ANDREW MCLEAN

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 an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation as the proposed development is contrary to policy, is the subject of a letter of representation and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the south side of the A70 Muirkirk Road on the outskirts of Lugar and on the east side of the access road to Holmhead Farm. The site is located some 80 metres south of the junction of Muirkirk Road with Thornwood Drive in Lugar. The site extends to 0.2 hectare and is bounded to the north by Muirkirk Road, by the Lugar Water to the east by the access road to Holmhead Farm and agricultural land to the west and by scrubland to the south.

2.2 The site is relatively level and there are a number of trees located on the boundary of the site with the Lugar Water. The site comprises an area of scrubland that is partly overgrown and is from time to time used for the storage of agricultural waste, dung and silage.

2.3 The site has the appearance of wasteland and as such detracts from the general amenity of the area, although the site is part of an area of ancient woodland.

2.4 **Proposed Development:** Outline permission is sought for the change of use of the site from agricultural use to commercial use for the formation of a contractor's yard. Outline consent is also sought for the erection of a dwellinghouse in association with the contractor's yard. The indicative layout plan submitted by the applicant shows the proposed dwellinghouse and its curtilage taking up the greater part of the application site adjacent to the junction of the A70 road with the access road to Holmhead Farm. The plan also shows the provision of a garage/shed building and yard to accommodate the applicant's business that currently operates from a site within Mauchline. The applicant operates a roads and utilities contracting business from the site in Mauchline. The proposed shed is indicated to be 15 metres by 10 metres with a maximum height of 4 metres to eaves. The indicative layout shows the provision of screen planting along the A70 road and access road

frontages of the site in order to address issues of visual impact of the proposed development.

2.5 A recent outline application for this development was refused by the Southern Local Planning Committee on 17 June 2005. This current application is in effect for revised proposals as the applicant seeks to address a number of concerns previously indicated, particularly in relation to the siting of the elements of the proposal and their impact on the visual amenity of the area in which the application site is located. The applicant has again submitted a statement in support of his application that is referred to in section 6 of this report.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division (Flooding Section) has indicated that although the SEPA flood inundation mapping indicates that this site may be susceptible to flooding in a 1 in 100 year event, the scale of the proposed development does not justify the submission of a full flood risk assessment. The applicant must ensure the development complies with the requirements of SPP7 in relation to development on functional flood plains and associated compensatory storage measures. It will be necessary to provide detailed cross sections of the site and the opposite bank to assess the implications for the site of a 1 in 200 year flood event. The design of the buildings must give careful consideration to finished floor levels, position for air vents and the use of water resistant materials. The developer will also require to consider the consequences of the possible blockage of the river channel at the sewer crossing and the flooding implications for the site with regard to the flow path of any flood waters.

Noted. It is considered that should the Committee be minded to approve this application, a suspensive condition should be imposed requiring the applicant to submit appropriate information to address the issue of flood risk prior to the commencement of any works on site.

3.2 Scottish Water has no objections to the proposed development.

Noted.

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposals provided that the drainage arrangements are to its satisfaction. All foul drainage from the development must be connected to the public sewerage system in accordance with Scottish Water requirements. The development must not entail the use of dual manholes for connections to the existing sewage system, either in the public sewers or within the curtilage of the development. SEPA would seek a condition requiring the applicant to obtain assurance from Scottish Water that the additional foul drainage arising from this development will not cause or contribute to premature operation of downstream consented storm sewer overflows. SEPA requests a condition requiring the applicant to install a surface water treatment system designed and constructed in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. Soils in this area may not be suitable for infiltration systems and therefore

surface treatment structures may be more appropriate. All waste materials generated by this development that require to be removed such as construction, demolition materials and surplus excavated material, must be removed from the site by licensed waste carriers. Waste must be removed to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

Appropriate conditions and notes can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

3.4 Power Systems has no objections to the proposed development.

Noted.

3.5 East Ayrshire Council Outdoor Amenities Section has no objections to the proposed development. Any land held in Neighbourhood Services Account damaged by the proposed development should be re-instated to the satisfaction of this Section.

Noted.

3.6 Lugar and Logan Community Council has stated that although this application in its revised format has addressed most of its previous concerns, the concern that still remains is that of what might be stored in the yard that might cause problems if it was to get into the nearby river.

The operation of the yard would include the storage of materials and equipment used in the applicant's business including vehicles. Appropriate conditions could be attached to any consent granted to ensure appropriate safeguards are implemented to prevent contamination of the watercourse.

3.7 East Ayrshire Roads and Transportation Division has no objections to the proposed development subject to the following conditions:

1. Visibility splay areas of 2.5 metres by 160 metres to the east and 2.5 metres by 215 metres to the west will require to be formed and maintained at the junction of the private access with the A70 road with no object greater than 1 metre in height allowed within these areas. This will require the applicant to enter into a Section 75 Agreement with the adjacent landowners. Junction visibilities are required to be formed prior to any works commencing on site.
2. Visibility splay areas of 2 metres by 20 metres will require to be formed and maintained at the site access points with no object greater than 1 metre in height allowed within these areas.
3. The existing public road across the full frontage of the site will require to be widened to 5.5 metres and a 2 metre wide footway constructed to connect to the existing footway on the A70 Muirkirk Road.
4. No surface water must be allowed to discharge onto the existing public road.
5. A minimum of 3 off road parking spaces shall require to be provided within the development.

6. Any garages must be set back a minimum distance of 6 metres from the edge of the public road.
7. The private access will require to be paved for a minimum distance of 10 metres from the edge of the public road carriageway to avoid the overcarry of loose material onto the public road.
8. The applicant will require to form a bin storage area adjacent to the A70.
9. Any gates will require to open inwards, away from the public road.
10. Access to and egress from the site will require to be taken in forward gear.

Conditions can be attached to any consent granted to meet the requirements of the Roads and Transportation Division. A Section 75 Agreement can be used to secure appropriate sightline visibility splay areas which may require the consent of third parties.

3.8 West of Scotland Archaeology Service has no adverse comments to make on the proposed development.

Noted.

3.9 East Ayrshire Outdoor Services Section has not yet responded to the consultation letter.

Noted.

4. REPRESENTATIONS

4.1 Apart from the representation made by Lugar and Logan Community Council, no other representations have been received regarding the proposed development.

Noted.

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

Ayrshire Joint Structure Plan

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas shall conform to the structure plan only where the development:

- A has a demonstrated site specific locational need;

The applicant has provided no justification for the proposed contractors yard and house to be located outwith the settlement boundary of Lugar.

B can be justified in terms of social and economic benefit to the community;

The proposed development cannot be justified in terms of social and economic benefit to the community although the applicant has indicated that his business is expanding and may create further employment opportunities.

C contributes to rural land diversification: or

It is considered that the proposal would not contribute to rural land diversification.

D provides for the operational needs of agriculture and forestry.

The proposal would not provide for the operational needs of agriculture or forestry.

The proposal is therefore contrary to Policy G5 of the approved structure plan.

East Ayrshire Local Plan

5.3 The business/industrial element of the proposal requires to be assessed against policy IND 10 of the East Ayrshire Local Plan as the site is located outwith the settlement boundary of Lugar. Policy IND10 states that industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to one of five stated types of development.

(i) Category 1 and 2 business and industrial sites and those Miscellaneous Development Opportunity sites with potential for industrial or business development, as indicated on the Local Plan Rural Area Map;

The proposed site is not an identified development opportunity site.

(ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;

A contractor's yard is not associated with agriculture or forestry.

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

The proposed business is not related to rural activities.

(iv) Rail freight based industrial uses at existing coal disposal points; or

A contractor's yard is not rail freight based industrial use.

(v) Sensitive industrial and business developments with a clearly demonstrated site specific locational need to be located within the Rural Diversification Area.

The proposed business is not a sensitive industrial development and the site is not located within the Rural Diversification Area.

It is considered that the development of the proposed contractor's yard meets none of the above criteria and is therefore contrary to policy IND 10.

5.4 The residential element of the proposal requires to be assessed against policy RES 13. Policy RES13 is supportive of residential development of houses in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis for one of four stated purposes.

(i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;

The house is not required for a full time agricultural or forestry worker.

(ii) for a worker employed by a rural enterprise or tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;

A contractor's yard is not considered to be a rural enterprise and it is not a tourism related activity. A worker living on the site of a contractor's yard is not considered necessary for its economic operation.

(iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or

This is not applicable to the proposed development.

(iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

This is not applicable to the proposed development.

The policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

It is considered that a house connected to a contractor's yard does not fall within any of the above categories of development. The residential element of the proposal is contrary to policy RES 13.

5.5 Policy ENV10 states that the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved by five stated means. One of these is pertinent to the application as follows:

(iii) development likely to adversely affect local nature reserves and provisional wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded whenever possible. Where development is approved for such sites, appropriate measures should be taken to conserve and manage, as far as possible, the sites' biological or geological interest and to provide for replacement habitats or features where damage is unavoidable;

The application is in outline only at this stage and the potential impact on the Provisional Wildlife Site cannot be fully assessed at this stage. It should be noted that in environmental and visual amenity terms, the current condition of the site and its present use is considered to make no positive contribution to nature conservation at this location.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the planning history of the site, Scottish Planning Policy, and the statement of support for the development by the applicant.

Consultations Responses

6.2 There are no consultation responses that would suggest that permission should be withheld, although as in relation to issues of flood risk, conditions would need be required to address specific concerns. It is considered that the representation received from the Community Council could to some extent be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.

Planning History

6.3 A previous outline planning application (Ref. No. 05/0305/OL) was refused by the Southern Local Planning Committee on 17 June 2005 on the grounds that the development was contrary to policy and the detrimental visual impact that the development would have on the local area. The present application relates to the same application site but differs as described in section 2.5 above.

Scottish Planning Policy 3: Planning for Housing

6.4 SPP3 states that rural areas across Scotland face a range of economic and environmental circumstances. Many areas close to large towns and city regions experience pressure for various forms of development, and planning policy will be concerned with managing these pressures. For other rural areas, planning policy will be concerned with enabling growing communities to expand, as well as sustaining fragile and in some cases dispersed communities. Planning policies have traditionally sought to restrict the development of new houses in the countryside to

maintain rural character and amenity and safeguard agricultural production. Where possible, most housing requirements should be met within or adjacent to existing settlements. This prevents the sprawl and coalescence of settlements, makes efficient use of existing infrastructure and public services and helps to conserve natural heritage and rural amenity. However, while environmental protection remains important in the context of sustainable development, the major changes taking place in farming and the rural economy mean that some aspects of policy on housing in the countryside need adjustment. In some rural areas, particularly those categorised as intermediate and remote, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. In remote rural areas with substantial long-term depopulation, proactive planning measures to help increase the resident population could assist economic and social regeneration. A dispersed settlement pattern is already an established feature of the landscape and economy in crofting areas.

Noted.

Scottish Planning Policy 15: Planning for Rural Development

6.5 This more recent policy document states that SPP3 remains the first point of reference on the general policy for housing. SPP15 advances policy in respect of small scale rural housing developments including clusters and groups in close proximity to settlements, replacement housing, plots on which to build individually designed houses, and holiday homes. The overall message is that there is considerable scope for allowing more housing developments of this nature and that this should be expressed in development plans, either as part of general settlement policy or as a separate sub-set on rural housing policy. In many rural areas there are small sites (e.g. sawmills and brickworks) which cease to be required for their original purpose where conversion to residential use would bring about a net environmental benefit.

At this time, the adopted East Ayrshire Local Plan remains the prime consideration in the determination of this application. Although the provisions of SPP15 will be taken into account in the forthcoming review of the EALP, the proposed development is contrary to the development plan.

Supporting Statement

6.6 The applicant states that at present his site in Mauchline has no security and there have been numerous break-ins that have been reported as recently as 14 February 2005. The existing yard has very restricted access and deliveries have to be made before 8 am and after 5:30 pm which is not really suitable as deliveries are required during business hours. The reason for the dwelling house is for security purposes. He has been in business for some 10 years and owing to success, needs to expand and take on further employees who will be from the Cumnock area.

6.7 The applicant has also submitted information regarding the history of the application site and has indicated that the site was previously occupied by a six apartment dwelling with market gardens consisting of three large greenhouses, a

shed for rearing pigs and a garage for the storage and repair of motor bikes. The site provided the local community with fruit and vegetables and supplied the local butcher in Lugar with meat. The dwelling occupied the site for well over 100 years and was demolished in 1959 due to vandalism. The applicant has submitted a photograph and plan indicating the presence of the dwelling on this site.

6.8 The applicant has stated that the application has been amended hoping to fulfil the wishes of the committee by moving the site and reducing the size of the shed to where it will not be intrusive to any passers-by. The dwelling will face onto the road and will have soft landscaping with fast growing conifers for privacy and shelter. The applicant considers that this would be a marked improvement on the site at present. With this historic information, the applicant hopes that this would class the site as 'brownfield' and not 'greenfield' which would make it unusable for livestock or agriculture.

Notwithstanding the comments and circumstances of the applicant, including the history of the site, the proposal is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. While it is considered that the revised proposals for the site would assist in reducing visual impact to some degree, it is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a visual impact on the surrounding area.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

Noted.

8. CONCLUSIONS

8.1 As indicated in section 5 of the report, the application is not considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be refused unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application but it is not considered that these are of sufficient weight to justify a departure from policy in this case.

8.2 The proposed development is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. It is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a detrimental visual impact on the surrounding area.

8.3 There are no significant issues raised by consultees and no third party representations have been received with regard to the proposals. In terms of the indicative layout provided, it is accepted that the revised proposals will assist in reducing the visual impact of the development. However, while the present circumstances of the applicant are appreciated, and notwithstanding the historical information provided by the applicant, it is considered that these material considerations are not of sufficient weight to justify approval of the proposed development contrary to policy.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons listed on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will require to be referred to the Development Services Committee as it would represent a significant departure from policy.

Alan Neish
Head of Planning, Development and Building Standards

HM/HM
25 September 2005
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Supporting Statement.
7. Previous application 05/0305/OL.

Anyone wishing to inspect the above background papers should contact Mr. Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 05/0876/OL

Location	Muirkirk Road LUGAR
Nature of Proposal:	Proposed change of use of vacant ground to contractor's yard and erection of dwellinghouse.
Name and Address of Applicant:	Mr Andrew McLean 35 Logan Avenue LOGAN KA18 3HA
Name and Address of Agent	N/A

DPO's Ref:
PPO's Ref: Hugh Melvin

The above **OUTLINE** application should be refused for the following reasons:-

1. The proposed development represents the use of a prominent area of land located outwith the established settlement boundary of Lugar for commercial and residential purposes for which there is no site specific locational need or justification. The proposal is therefore contrary to Policy G5 of the approved Ayrshire Joint Structure Plan and Policies IND10 and RES14 of the adopted East Ayrshire Local Plan.
2. It is considered that the proposed development would have an adverse impact on the visual amenity of the rural area and this prominent location on the approach to Lugar village.

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