

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 30 MARCH 2007

**06/1127/FL: PROPOSED HORTICULTURAL CENTRE
AT VACANT LAND, LOCHLIBO ROAD, LUGTON
BY MR J FULTON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The application form and supporting statement indicates that the proposal is for a horticultural centre. The submitted plans are annotated to indicate that the proposal is a garden centre and indeed within the detailed proposals there is shown a unit being a garden centre. From the north end of the site southwards the proposal comprises of the following main elements;

- Approximately 4200sqm area for growing vegetables and fruit. In the previous application which was refused (reference number 04/1266/FL) this area of the site was partly allocated for a manager's house.
- Service vehicle access / turning head and 3 staff parking spaces
- A non-public area which contains two 75 sq metres glasshouses and one 50 sq metres shed
- 1184 sq metres of external display area
- Single storey building (12 metres by 24 metres), labelled as a 'garden centre' on the plan, with 60 car parking spaces served by two vehicle access points on to the A 736. The 288 sq metres building consists of an internal display area and restaurant with nine tables, associated toilets and offices.

1.2 The proposal has three vehicle access points with one serving the service area and two, serving the public car park, on to the A736 public road.

1.3 The applicant indicates that the proposal would potentially result in the employment of 20 staff as follows; one centre manager, one home produce manager, one cook, three kitchen / waiting assistants, four tills / stocking staff, two horticultural chargehands, four horticultural assistants and two general handymen / labourers.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in the report the application is considered not to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be refused unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the approval of the application.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will require to be referred to the Development Services Committee as that would be 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 recommended for refusal and is subject to 3 letters of objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located to the eastern side of the A736 Lugton to Uplawmoor Road directly opposite Caldwell Golf Course. The 1.2 hectare site is linear and is bounded by the Kilmarnock to Glasgow Railway to the east and by the A736 (Lochlibo Road) to the west. The application site measures approximately 420 metres long (south-west to north-east) and varies in width from approximately 20 to 30 metres. From the 1891-1912 OS map there is evidence that a small part of the site to the north was used as railway sidings in relation to the now disused Caldwell Station.

2.2 It should be noted that the former railway property immediately to the north east of the site is located within the boundary of East Renfrewshire Council.

2.3 **Proposed Development:** The application form and supporting statement indicates that the proposal is for a horticultural centre. The submitted plans are annotated to indicate that the proposal is a garden centre and indeed within the detailed proposals there is shown a unit being a garden centre. From the north end of the site southwards the proposal comprises of the following main elements;

- Approximately 4200sqm area for growing vegetables and fruit. In the previous application which was refused (reference number 04/1266/FL) this area of the site was partly allocated for a manager's house.
- Service vehicle access / turning head and 3 staff parking spaces
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2.4 The proposal has three vehicle access points with one serving the service area and two, serving the public car park, on to the A736 public road.

2.5 The applicant indicates that the proposal would potentially result in the employment of 20 staff as follows; one centre manager, one home produce manager, one cook, three kitchen / waiting assistants, four tills / stocking staff, two horticultural chargehands, four horticultural assistants and two general handymen / labourers.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division has recommended that the application be deferred as none of the three proposed access points indicate the sightlines available. It may not be possible to achieve the required sightlines at the service access due to the horizontal geometry. In addition the service access has a turning head for commercial vehicles which is inadequate due to insufficient exit radii and the proximity of the security gates.

The Road's Divisions comments indicate that the proposal fails to provide safe means of access and egress to the proposed development. Therefore the proposal should be refused.

3.2 East Ayrshire Council's Economic Development and Property Division has queried the market that the centre would serve given similar competitors in close proximity and noted that the outline business plan gives no indication of the commercial viability of the proposed business.

Noted.

3.3 Scottish Water has stated that there are no known sewers to which a connection may be made from the proposed development. Therefore drainage will require to be treated by a septic tank or other suitable treatment system to the satisfaction of SEPA. The development can be serviced with water.

Noted.

3.4 Railtrack has no objection in principle to the proposal however they would require the developer to adhere to the requirements for construction work and development on or near operational railway land.

A suitable advisory note could be imposed on any consent issued.

3.5 Scottish Environment Protection Agency (SEPA) has no objection to this development in terms of foul drainage subject to the arrangements being to the satisfaction of SEPA. SEPA's preferred method for the disposal of septic tank effluent is the provision of a sub soil soakaway. The applicant is advised to contact SEPA and Building Control regarding this matter.

This matter could be addressed by the imposition of advisory notes.

- Due to previous uses of the site it may be contaminated and this matter should be investigated by the applicant.

This matter could be addressed by the imposition of a condition.

- With regard to surface water it is recommended that any planning permission includes a condition requiring the applicant to treat any surface water from the site in accordance with the principles of the SUDS manual (C697) which was published by CIRIA in February 2007. However the design of the drainage system would be site specific and in this regard the applicant is advised to contact the SEPA's Ayr office.

This matter could be addressed by the imposition of a condition and an advisory note.

- With regard to construction, pollution prevention, transport and storage of waste materials and the storage and use of fertilisers and pesticides the development of the site must be carried out with due regard to the relevant Regulations and SEPA's guidelines.

Suitable advisory notes could be imposed.

3.6 Dunlop and Lugton Community Council have objected to the proposal on the following grounds:

Road safety – access to and from this site would be extremely dangerous as there is a bad bend at both ends of the site and this stretch of Lochlibo Road is an accident blackspot as the speed of vehicles is excessive.

The Road's Divisions comments indicate that the proposal fails to provide safe means of access and egress to the proposed

development. It is therefore considered that the proposal should be refused.

There is already a nursery/garden centre about 600/800 yards from the site.

The issue of competition in this respect is not a material planning consideration.

3.7 East Ayrshire Council's Environmental Health Division has indicated no objection. Drainage is to be to the satisfaction of Building Standards and SEPA. Suitable controls are required over site works to avoid disturbance to nearby residential properties. They are not aware of any contamination issues on the site, however they would suggest that it would be useful to attach a condition to any grant of planning consent requiring the applicant to monitor the building works for any contamination issues.

Conditions could be attached to any grant of planning consent to address these matters.

3.8 East Renfrewshire Council has indicated that they wish to object to this application. They note that the proposed site is located in an area designated within the Ayrshire Joint Structure Plan 1999 as a Rural Protection Area and as such Policies G1 and G5 of this Plan are particularly relevant. These policies are complemented by Strategic Development Policy SD3 Rural Protection Areas, contained within the East Ayrshire Local Plan.

- Although this site is not within a defined green belt they suggest that SPP 21 (Green Belts) is relevant to this proposal. It allows for horticultural development including market gardening but does not allow for retailing unconnected with or out of scale with the development. In their view the retailing proposed in this instance, including coffee shop is out of scale with the horticultural element of the proposal. They suggest that the correct location for this type of development is existing centres. Nearby centres which may be adversely affected by this development include Beith, Dunlop, Stewarton, Neilston and Barrhead. The scale of the retailing proposed is contrary to SPP8 (Retailing) which encourages retailing to be located within existing centres. Additionally this location would encourage the need to travel contrary to guidance in a range of SPP's including SPP8 and SPP17.
- They also indicate that the proposal is likely to be visually detrimental to the countryside at this location. It could also affect the setting of nearby Uplawmoor by encouraging ribbon development. Previous interest has been expressed for housing and business development in the area to the north of the application site.

- Finally they note that the proposal would introduce three additional accesses on to the A736 which could have adverse traffic implications on this straight stretch of the road where traffic speeds are high.

Noted.

4. REPRESENTATIONS

4.1 Three letters of objection (including one from the Community Council) have been received in relation to the proposal. The grounds of objection raised by the Community Council and East Renfrewshire Council are summarised at paragraphs 3.8 and 3.10 above. The grounds of objection raised by Caldwell Golf Club are summarised as follows:-

4.2 Numerous road accidents have occurred in recent years on this stretch of road. The Golf Club is of the view that vehicular traffic seeking to access / egress such a development would further increase the danger on this section of roadway. The golf course has suffered considerable damage and the potential increased risk is likely to further increase damage to the golf course.

The Road's Divisions comments indicate that the proposal fails to provide safe means of access and egress to the proposed development. Therefore the proposal should be refused. The issue of damage to the golf course itself is a private legal matter and not material to the determination of the planning 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).

Ayrshire Joint Structure Plan

5.2 Policy G1 of the Ayrshire Joint Structure Plan indicates that the three Ayrshire Councils shall in providing for new development give priority to the use of land within the existing settlements. Any proposed development outwith settlement boundaries shall not conform to the Structure Plan except:-

- (a) where it specifically accords with other policies in the Structure Plan;
 - (b) in locations identified in local plans for that specific development purpose;
- and

- (c) where the proposed development meets appropriate development criteria as defined by the Structure Plan and Local Plan.

The proposal fails to accord with the relevant criteria specified in Policy G1 of the Structure Plan.

5.3 Policy G5 of the Structure Plan indicates that Development Proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlements, development proposals shall conform to the Structure Plan only where the development:

- A has a demonstrated site specific locational need;

Although the horticultural element is suitable for a countryside location the applicant has not demonstrated any site-specific locational need for the overall development proposal.

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

The applicant has indicated that the proposed market for the scheme is East Renfrewshire where 83% of the houses are owner occupied and 78% of homes have associated gardens. The projected employment is put forward as an economic benefit.

- C contributes to rural land diversification; or

It is considered that as the proposal is an unjustified retail development in the Rural Protection Area; the proposal fails to contribute to rural land diversification.

- D provides for the operational needs of agriculture and forestry

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

East Ayrshire Local Plan

5.4 With regard to the horticultural / Garden Centre, Policy RTC 7 supports retail development proposals in out of town centre locations in six stated circumstances. One of these circumstances is pertinent to the application, this being where:

- (iv) the proposal is for a farm shop, falling within Class 1 of the Use Classes Order, related specifically to local agricultural or horticultural activities and where the goods sold are limited exclusively to those produced or grown on site;

With regard to the retail element of the proposal, although not strictly a farm shop, a horticultural / garden centre can primarily be dealt

with in the spirit of Policy RTC 7(iv) insofar as it may relate to horticulture activities where the goods sold are grown on site. However this proposal has a limited growing area in relation to the shop, café, external display and parking areas. In this regard it is also key to note that the business plan indicates that the proposal will employ a total of 20 staff as follows; one centre manager, one home produce manager, one cook, three kitchen / waiting assistants, four tills / stocking staff, two horticultural chargehands, four horticultural assistants and two general handymen / labourers. Therefore it is considered that the business would not be one which could be considered to be similar to the farm shop concept. In this case the goods to be sold are not to be limited 'exclusively' to those produced or grown on site and given the above figures the retail element is not considered to be ancillary to the horticultural activities on site.

5.5 Policy IND10 of the East Ayrshire Local Plan 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. Only one of these stated types of development is pertinent to the application, this being:-

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

The proposed horticultural / garden centre is not considered to be a sympathetic business development associated with agriculture because there is a substantial retail and commercial element unrelated to agriculture or this specific countryside location.

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;

The application site is in a prominent and exposed location alongside the A736 public road. The ground itself is covered in rough grass and is undulating with areas of relatively steep banking. There are a large number of small deciduous trees predominantly along the boundaries. The net effect of this is that the site currently contributes to the open rural landscape character of the area. The development proposal incorporates a significant element of building, other structures and engineering operations which would have a considerable urbanising effect to the significant detriment of the surrounding environment

It is also considered that, due to the inadequate access arrangements onto the A736 and the introduction of commercial activities into a rural area, the proposed garden centre would have a significant adverse impact on the surrounding environment.

(ii) their impact on adjacent uses;

The application site is located adjacent to an existing golf course and due to the high level of retail and commercial activity proposed and the inadequate access arrangements onto the A736, the scheme would have a detrimental impact on the adjacent recreational use.

(iii) transportation implications;

The Road's Divisions comments indicate that the proposal fails to provide safe means of access and egress to the proposed development. Therefore the proposal should be refused.

(iv) infrastructure implications;

Scottish Water and SEPA have no objection to the proposal.

(v) loss of prime agricultural land; and

Not applicable as this is not prime quality agricultural land. A small portion of the site appears to have formerly been used in association with the adjacent railway line.

(vi) impact on natural and built heritage resources.

Not applicable.

5.6 Policy SD3 of the East Ayrshire Local Plan 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 may be pertinent to the application, these being where the development:-

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

Although the horticultural element is suitable for a countryside location the applicant has not demonstrated any site-specific locational need for the overall development proposal.

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

The applicant has indicated that the proposed market for the scheme is East Renfrewshire where 83% of the houses are owner occupied and 78% of homes have associated gardens. The projected employment is put forward as an economic benefit.

(iii) contributes to rural land diversification.

It is considered that as the proposal is an unjustified retail development in the Rural Protection Area, the proposal fails to contribute to rural land diversification.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received, the impact on the amenity of the area and the relevant planning history.

Consultation Responses

6.2 The consultation responses are summarised in Section 3 of this report and they raise issues which merit refusal of the application.

Representations

6.3 The representations received have been summarised in Section 4 of the Report and it is considered that they raise issues which merit the refusal of the application; eg road safety.

Impact on the Amenity of the Area

6.4 It is considered that the proposal cannot be accommodated as detailed without having a detrimental impact on the surrounding area due to the visual impact of the proposal, the road safety issues and the introduction of the commercial activities into the rural area. The proposal would result in an intensification of inappropriate development in the Rural Protection Area leading to a clutter of suburban buildings, structures and hard landscaping which would be detrimental to the visual amenity of the surrounding environment.

Planning history

6.5 The previous application for this site (reference number 04/1266/FL) for a proposed garden centre with associated parking and dwellinghouse was refused on 25 November 2005 for the reasons outlined below;

1. *The proposed development fails to accord with Policy G1 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.*

2. *The proposed development fails to accord with Policy G5 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.*

3. *The proposed development fails to accord with Policy IND10 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for industrial and business development outwith settlement boundaries and is therefore deemed not to be appropriate.*

4. *The proposed development fails to accord with Policy RTC7 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for retail development proposals in out of town centre locations and is therefore deemed not to be appropriate.*

5. *The proposed development fails to accord with Policy SD3 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for development proposals located outwith settlement boundaries in the Rural Protection Area and is therefore deemed not to be appropriate.*

6. *The proposed development fails to accord with Policy RES13 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for residential development in the Rural Protection Area and is therefore deemed not to be appropriate.*

6.6 Although the manager's house has been omitted from the previous scheme and the number of car parking spaces reduced from 87 to 60 the development proposal still conflicts with development plan policy.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As indicated in the report the application is considered not to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be refused unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the approval of the application.

9. RECOMMENDATION

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

CONTRARY DECISION NOTE

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

Alan Neish
Head of Planning, Development and Building Standards

22 March 2007
(ADC/IMB/RH)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letters of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Planning Application No. 04/1266/FL

Anyone wishing to inspect the above papers please contact Austin Cooke, Senior Planning Officer, on 01563 576772.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/1127/FL

Site of Proposal:	Vacant Land Lochlibo Road LUGTON G78 4BU
Nature of Proposal:	Proposed Horticultural Centre
Name & Address of Applicant:	Mr J Fulton 16 Easterbrae MOTHERWELL ML1 2ET
Name & Address of Agent:	Gordon Hotchkiss Flat 3/1, 12 Garioch Drive Glasgow G20 8RS

DPOs Reference: ADC/IMB/RH

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

1. The proposed development fails to accord with Policy G1 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.
2. The proposed development fails to accord with Policy G5 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.
3. The proposed development fails to accord with Policy IND10 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for industrial and business development outwith settlement boundaries and is therefore deemed not to be appropriate.

4. The proposed development fails to accord with Policy RTC7 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for retail development proposals in out of town centre locations and is therefore deemed not to be appropriate.

5. The proposed development fails to accord with Policy SD3 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for development proposals located outwith settlement boundaries in the Rural Protection Area and is therefore deemed not to be appropriate.

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