

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 30 MARCH 2007

**06/1070/FL: PROPOSED TROUT FISHERY AT
GRASSYARDS A719 WATERSIDE
BY MRS A. STEVENS**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The development consists of three fishing ponds (from 0.13 – 1.00 ha in size and 2m deep on average), bunding, new planting, car parking and footpaths. Ground round the pond would slope gently, while the bunds would be steeper (1 in 3) and 2 – 3 m high. The outside slopes of the bunds would be planted with trees and shrubs. Some wetland plants would be put in at pond corners.

1.2 Ponds would be filled from Grassyards Burn via a single valve-controlled pipe. The extraction rate and height would be set by SEPA to maintain flow rates in the burn. Water would flow first to the middle pond (pond 2) where it would flow west to the largest pond (pond 1). Water would be pumped from pond 2 to the smallest pond (pond 3). There would be emergency outflow pipes from the ponds for when rainfall is high. The main outflow would be from pond 1 to Grassyards Burn.

1.3 A new access to the proposal would be taken directly off the A719. Parking for 69 cars would be provided between the roadside hedge and the western bund. The fishery would first be run from a temporary portacabin with 3 portable toilets adjacent to it. Planning permission for a permanent bothy and toilets would be sought once the fishery opens. A small reedbed, as specified by SEPA, would be built to treat waste from the permanent toilets.

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 is indicated in Section 5 of the report the application is considered to be in accordance 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 As indicated in Section 6 of the report there are material considerations relevant to this application which are not considered to be significant enough to merit the refusal of the application.

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 it will not require to be referred to the Development Services Committee, as there would be no significant breach of Council Policy.

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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**06/1070/FL: PROPOSED TROUT FISHERY AT
GRASSYARDS A719 WATERSIDE
BY MRS A. STEVENS**

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 planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located at the intersection of the A719 and the unclassified Grassyards Road to Kilmarnock. It is a 4.4ha field managed for silage and is bounded to the north by Grassyards Burn and Grassyards Lane, to the west by the A719 and to the east and south by fencing and hedge rows. The site rises from west to east.

2.2 **Proposed Development:** The development consists of three fishing ponds (from 0.13 – 1.00 ha in size and 2m deep on average), bunding, new planting, car parking and footpaths. Ground round the pond would slope gently, while the bunds would be steeper (1 in 3) and 2 – 3 m high. The outside slopes of the bunds would be planted with trees and shrubs. Some wetland plants would be put in at pond corners.

2.3 Ponds would be filled from Grassyards Burn via a single valve-controlled pipe. The extraction rate and height would be set by SEPA to maintain flow rates in the burn. Water would flow first to the middle pond (pond 2) where it would flow west to the largest pond (pond 1). Water would be pumped from pond 2 to the smallest pond (pond 3). There would be emergency outflow pipes from the ponds for when rainfall is high. The main outflow would be from pond 1 to Grassyards Burn.

2.4 A new access to the proposal would be taken directly off the A719. Parking for 69 cars would be provided between the roadside hedge and the western bund. The fishery would first be run from a temporary portacabin with 3 portable toilets adjacent to it. Planning permission for a permanent bothy and toilets would be sought once the fishery opens. A small reedbed, as specified by SEPA, would be built to treat waste from the permanent toilets.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Moscow and Waterside Community Council have objections to the application for the following reasons:

The location is bad as in our opinion such a development should be distanced from a main road and in a natural setting.

The Environmental Assessment provides supporting evidence, which shows that the site is acceptable in topographical and hydrological grounds.

3.2 The development would create an unnatural site and the proposed car park would be a visual carbuncle on the landscape at a point, which is very rural. Such unnatural and environmentally detrimental development should not be in your face.

The Environmental Assessment provides supporting evidence, which shows that the site is acceptable in topographical and hydrological grounds.

3.3 Two residents informed the meeting that the pipes, which feed their water supplies, run through the proposed development site. They also raised their fears of noise pollution when the development is being constructed and thereafter when users are arriving and departing.

The location of water pipes is not a significant material planning consideration. Retention of such private infrastructure is a legal matter between the developer and the affected neighbour. However, water extraction rates would be controlled by SEPA. The proposal would introduce more people into the area however it is considered that the proposed use would not significantly increase noise levels in the area.

3.4 The proposed access would be onto the A719 at a particular fast straight stretch of road and everyone has serious concerns about safety.

The Council's Roads Division have no objection to the proposal.

3.5 The Grassyards Burn from which the proposed 3 ponds would be fed is in the habit of drying up in the summer. Considering that the sewerage from at least 4-properties seeps into the burn close to the site, it is felt that it would be inappropriate to develop this area in such a way.

SEPA have assessed the proposal and have no objection to the scheme.

3.6 All along the Grassyards Burn has been a haven for wildlife and it is felt that the proposed development will greatly endanger this for a considerable distance.

The Environmental Assessment addresses the impact on the wildlife of the area and indicates that the scheme will not have a significant detrimental impact on the wildlife in the locality.

3.7 Scottish Environment Protection Agency have no objection to the proposal subject to the following working practices: that the waste arising from the portable toilets will be disposed of off site, the water extraction shall be carried out in accordance with the Water Environment (Controlled Activities) (Scotland) Regulations 2005, Oil storage on site shall be in accordance with the Water Environment (Oil storage) Scotland Regulations 2006 and that construction works shall be carried out in accordance with SEPA guidelines on pollution prevention.

A notice can be attached to any grant of planning consent bringing these matters to the applicant's attention.

3.8 Scottish Water have made no objection to the proposal however indicate that various best practice criteria must be adhered to during the development.

A note can be attached to any grant of planning consent advising the applicant to contact Scottish Water to discuss working practices.

3.9 Ayrshire Rivers Trust (ART) have no significant concerns regarding this application. However, they would comment that the Grassyards Burn is a very small watercourse and with its headwaters rising in commercial forestry it is likely to suffer from low flows during dry periods. Ayrshire Rivers Trust notes that the applicant has consulted with SEPA regarding the abstraction licences and is reassured that providing the requirements of the licence are complied with fully, the ecology of the Grassyards Burn should be protected.

3.10 It was noted that the applicant doesn't intend to provide any supplementary feeding for the fishponds and therefore doesn't require a SEPA discharge consent. Providing this is adhered to the proposal should have no significant impact on water quality.

3.11 Escapes of introduced species such as rainbow trout can have a negative ecological impact on native fish stocks. ART notes that provision of screening to prevent upstream and downstream movement of stocked fish has been included in the application.

3.12 The environmental statement considered the potential impact on local otters but didn't mention the potential for stocked fisheries of this nature to attract fish eating birds such as cormorants, which could also have a negative impact on nearby fish populations. It is likely that the measures proposed for site security such as continual manning will act as sufficient deterrent to ensure that the site doesn't become a magnet for other fish predators.

However this issues should perhaps have been considered in more detail in the environmental statement.

3.13 ART welcomes the use of chemical toilets rather the installation of septic tanks

Noted.

3.14 East Ayrshire Council's Roads and Transportation Division has offered no objection to the proposal but have recommended that the proposed layby and access arrangement be completed prior to the commencement of the works within the site.

A condition can be attached to any grant of planning consent addressing these matters.

3.15 Scottish Natural Heritage have not responded at the time of writing the report.

Noted.

4. REPRESENTATIONS

4.1 The proposal was advertised in the Kilmarnock Standard. Fourteen individual objectors and a petition containing 97 signatures objecting to the proposal have been received. It should also be noted that a petition containing 264 signatures supporting the proposal has been received. Letters of support from Irvine Water Sports Club, Hurlford & Crookedholm Angling Club, Vale Angling Club, Galston Boys Brigade, East Kilbride & District Disabled Anglers Association, Galston Angling Club, Johnnie Walker Angling Club, Darvel Angling Club, Gartcosh Angling Club as well as six individual letters of support from members of the public have also been received.

The letters of objection state:

4.2 There is an over supply of these facilities in the area.

This is not a material planning consideration.

4.3 Inappropriate location because of topography and hydrology.

The Environmental Assessment provides supporting evidence, which shows that the site is acceptable in topographical and hydrological grounds.

4.4 Insensitive siting.

It is considered that upon completion of the scheme the proposal will sit sensitively within the rural environment.

4.5 Potential water problems due to lack of water supply and likely detrimental impact on watercourse.

The Environmental Impact Assessment provides supporting evidence, which shows that the proposal will not have a detrimental effect on the hydrology of the existing burn. SEPA have not objected to the proposal.

4.6 Poor layout and poor quality of appearance from public roads.

The proposal will change the current appearance of the area however the proposal will not have a significant detrimental impact on the appearance of that area.

4.7 Potential traffic dangers.

The Council's Roads Division has no objection to the proposal.

4.8 Intrusive use in quiet area.

The proposal will introduce more people into the area however it is considered that the proposed use will not significantly increase noise levels in the area nor be an inappropriate rural use.

4.9 The proposal will result in a dwellinghouse in the countryside.

The proposal does not include the erection of a dwellinghouse. Any such proposal will require to be considered on its merits if received.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

Ayrshire Joint Structure Plan (AJSP)

5.2 Policy ECON 14 on Rural Diversification indicates that the three Ayrshire Councils shall;

A) 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; and

B) Identify appropriate criteria for the assessment of proposals related to the diversification and growth of existing rural businesses and for the establishment of appropriate new business development in rural areas.

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

East Ayrshire Local Plan

5.3 With regards to the East Ayrshire Local Plan, 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. From the Environmental Report it is considered that the proposal can be justified in terms of site specific locational need.

(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, as acknowledged within the letter of support.

(iv) contributes to rural land diversification; or

It is considered that the proposal contributes to rural land diversification as it is an appropriate alternative rural activity.

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;

It is considered that the proposal has justified a locational need through the Environmental Report.

- (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 bring economic benefits associated with the development of a commercial trout fishery in the locality.

- (iv) Impact on surrounding environment and adjacent uses;

It is considered that there will not be any negative impact on the surrounding environment and adjacent uses.

- (v) transportation and infrastructure implications;

The Council's Roads Division and other Service Providers have no objection to the proposal.

- (vi) loss of public amenity open space;

Not relevant in this circumstance.

- (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

There would be no loss of prime agricultural land.

- (viii) Impact on natural and built heritage resources.

Not relevant in this circumstance.

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

- (viii) 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.

5.6 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 the proposal will not have a negative impact on the surrounding environment.

- (ii) their impact on adjacent uses;

It is considered that there will not be a negative impact on adjacent uses.

- (iii) transportation implications:

The Councils Roads Division have no objection to this proposal.

- (iv) infrastructure implications;

None of the consultees have objected to the proposal on infrastructure grounds.

- (v) loss of prime agricultural land; and

There would be no loss of prime agricultural land.

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

Not relevant.

5.7 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;

Provided the applicant implements the mitigation measures and other recommendations that are contained within the Environmental Assessment, then it is considered that the proposal will not be visually or environmentally intrusive and is of a nature and scale compatible with adjoining activities.

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

There will be no significant impact on natural or heritage resources.

- (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.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received, the letters and petition of representation, the letters and petition of support and impact on amenity.

Consultations responses

6.2 It is considered that the consultation responses received except for the Community Council indicate that the application should be approved.

Representations received

6.3 There are a number of letters of objection including a petition against the proposal which argue that it is not appropriate development in the rural area, however, these do not outweigh the policy considerations of the proposal which are supportive.

Letters of Support

6.4 There are a number of letters of support including a petition, as well as support from local angling groups. These supporters acclaim the applicants previous fishery operation and welcome their new venture. These letters accord the policy also of encouraging appropriate leisure and recreation in the rural area.

Impact on Amenity

6.5 The proposal will change the current appearance of the area and will introduce more people into the area, however, the proposal will not have a significant detrimental impact on the appearance or character of the area.

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 is indicated in Section 5 of the report the application is considered to be in accordance 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 As indicated in Section 6 of the report there are material considerations relevant to this application which are not considered to be significant enough to merit the refusal of the application.

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 it will not require to be referred to the Development Services Committee, as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

19 March 2007 (WS/SA/RH)
FV-DM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Consultation responses.
3. Letters of support.
4. Adopted East Ayrshire Local Plan (2003).
5. Approved Ayrshire Joint Structure Plan (1999).
6. Statutory Notices and Certificates.
7. Representations against the proposal.

Anyone wishing to inspect the above papers please contact William Stewart, Principal Planning Officer, on 01563 578165.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No.06/1070/FL

Site of Proposal: Grassyards
A719
WATERSIDE
KA4 8PP

Nature of Proposal: Trout Fishery

Name & Address of Applicant: Mrs A Steven
5 Glen Crescent
DARVEL
KA17 0BG

DPOs Reference: WS/RH

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

1. The landscaping of the site shall be carried out in accordance with the details shown in figure V6 of the Environmental Statement dated December 2006. The landscaping scheme shall be implemented in the first planting season following the opening of the trout fishery 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 service lay-by, access and visibility sightlines for the access to the A719 shall be laid out within 2 months of the date of this consent and prior to any works on the formation of the ponds or parking area being commenced, in accordance with the details shown in drawing No. PL-02 dated 04 December 2006.

REASON In the interests of road safety.

3. 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 In the interests of the amenity of the surrounding area.

4. Details of any lighting, security or floodlighting, 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 In the interests of the amenity of the surrounding area.

5. 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 In the interests of the amenity of the surrounding area.

6. 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.

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

7. In the event of the trout fishery ceasing to operate or becoming redundant for a period in excess of 12 months, the ponds, parking area and physical landscaping shall be removed and the site returned to its former condition and levels.

REASON In the interest of the amenity of the surrounding area.

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

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

NOTES

1. The developer is advised to contact Scotland Gas Networks, 95 Kilbirnie Street, Glasgow, G5 8JD (0141 418 4093), to discuss safe operating practices due to the possible presence of apparatus in the vicinity.
2. 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.

3. The developer is advised to contact SEPA's Ayr Team on 01292 294000 at his earliest convenience in order to agree effluent disposal arrangements and consenting issues for this development.
4. 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.

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