

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 04 AUGUST 2006

**06/0271/FL: PROPOSED AMENDMENT OF CONDITION 2 OF PLANNING
CONSENT 04/0524/OL RELATING TO CHANGUE HILL DARVEL
BY KERR TIMBER LIMITED**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal aims to amend condition 2 of Planning Consent 04/0524/OL. Said planning consent related to the erection of a house for a forestry worker. Condition 2 of the consent required that “the dwelling shall only be occupied by a person locally employed or locally last employed full time in agriculture or in forestry on the land to which the dwelling relates: or by a dependant of such a person residing with him (or a widow or widower of such a person).”

1.2 The applicant wishes to amend the condition through a legal agreement which would render the agricultural workers condition void if the property was repossessed by the lender.

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 detailed in Section 5 of the report, the proposal fails to accord with the Development Plan. Therefore, the application should be refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6, there are material considerations relevant to the determination of this application, however, none of these are considered to be of sufficient weight that would warrant approval of the proposal.

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 this would be 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

NORTHERN AREA LOCAL PLANNING COMMITTEE: 04 AUGUST 2006

06/0271/FL: PROPOSED AMENDMENT OF CONDITION 2 OF PLANNING
CONSENT 04/0524/OL RELATING TO CHANGUE HILL DARVEL
BY KERR TIMBER LIMITED

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.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises an undeveloped 0.165 hectares of agricultural land at Changue Hill 1.6 kilometres to the south of Darvel.

2.2 **Proposed Development:** The proposal aims to amend condition 2 of Planning Consent 04/0524/OL. Said planning consent related to the erection of a house for a forestry worker. Condition 2 of the consent required that "the dwelling shall only be occupied by a person locally employed or locally last employed full time in agriculture or in forestry on the land to which the dwelling relates: or by a dependant of such a person residing with him (or a widow or widower of such a person)."

2.3 The applicant wishes to amend the condition through a legal agreement which would render the agricultural workers condition void if the property was repossessed by the lender.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Darvel Community Council have not responded to the proposal at the time of writing the report.

Noted.

4. REPRESENTATIONS

4.1 No letters of objection have been received in relation to this proposal.

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 Adopted East Ayrshire Local Plan (EALP) and the Approved Ayrshire Joint Structure Plan.

Ayrshire Joint Structure Plan

5.2 No policies are directly relevant to this proposal.

East Ayrshire Local Plan

5.3 Criteria (i) of Policy RES 13 indicates that the Council will be 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 a full time agricultural or forestry worker employed directly on the land to which the proposed house relates.

The amendment of condition 2 of the Planning Consent, which would result in the removal of the agricultural/forestry worker's occupancy tie, would be contrary to Policy RES 13 of the East Ayrshire Local Plan. The house in this case was presented at the outline stage by the applicant as being for a full time forestry worker. The long term management objections for the associated woodland were said to provide a labour requirement for at least one full time employee. The wording of the condition has been used in a great many similar consents without, apparently, the level of difficulty encountered by the applicant in this case. The wording is not considered to be ambiguous.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultation Responses

6.2 No consultation responses have been received in relation to this proposal.

Letter of Support

6.3 The applicant has indicated that they require this change to the condition as they have been unable to obtain mortgage valuations for the property.

Planning History

6.4 Outline Planning Consent 04/0524/OL for the erection of a dwellinghouse was approved on 08 September 2004.

Impact on the Amenity of the Area

6.5 The amendment of Condition 2 of the planning consent for the dwellinghouse as requested could result in a house, which is only intended for a forestry worker or agricultural worker, being occupied by any third party thereby leading to an unjustified house in the Rural Protection Area, contrary to the aims of the Local Plan.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As detailed in Section 5 of the report, the proposal fails to accord with the Development Plan. Therefore, the application should be refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6, there are material considerations relevant to the determination of this application, however, none of these are considered to be of sufficient weight that would warrant approval of the proposal.

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 this would be a significant departure from policy.

Alan Neish
Head of Planning, Development and Building Standards

26 July 2006
(CSI/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation Responses.
4. Letters of Representation.
5. Planning History.
6. Adopted East Ayrshire Local Plan (2003).
7. Approved Ayrshire Joint Structure Plan.

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

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/0271/FL

Site of Proposal: Changue Hill
DARVEL
KA16 9LS

Nature of Proposal: Amend Condition 2 of Planning Consent
04/0524/OL

Name & Address of Applicant: Kerr Timber Ltd
4 Newmarket Street
CASTLE DOUGLAS
DG7 1HY

Name & Address of Agent: DALE AND MARSHALL
18 Wallace Street
GALSTON
KA4 8HP

DPO's Reference: (CSI/RH/MMM)

The above FULL application should be refused on the following grounds:

1. The amendment of Condition 2 relating to agricultural/forestry worker occupancy of the house granted outline planning consent 04/0524/OL would potentially result in an unjustified house in the Rural Protection Area and this application therefore fails to accord with the requirements of Policy RES 13 of the East Ayrshire Local Plan

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**