

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 15 APRIL 2005

**05/0081/FL: PROPOSED IMPROVED VEHICLE ACCESS TO HOUSE,
STORAGE YARD AT REAR OF HOUSE, ACCESS ROAD BETWEEN NEW
HOUSE ACCESS AND STORAGE YARD
AT SUNNYSIDE COTTAGE, KILMARNOCK
BY MR K EDGAR**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This proposal seeks to alter the existing access to the dwellinghouse by closing the existing gate off the road, and moving the access to the side of the house, create an area of hardstanding to the rear of the property and lay down tarmac to create an access to this hardstanding area. The proposed access, to the immediate south west of the house, is proposed to be fully tarmaced for a distance of 8 metres from the road. For a distance of 40 metres, it is then proposed to be approximately 3.5 metres wide, with a 4 metre wide landscaped area either side. The area to the rear of the house is then proposed to be used as the hardstanding; this is approximately 30 metres by 30 metres. The applicant proposed to use the south east and north east perimeter of this hardstanding to store building materials, place a skip and park a mini-excavator and trailers when they are not in use for his business which concerns the installation of children's outdoor play areas. The remainder of the area is proposed to be used for turning and loading and offloading. The applicant has stated that no vehicles will be parked on site. The applicant proposes to erect a 1.5 metre high fence to screen the yard and the equipment.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report the proposal is not consistent with policy and should be refused in accordance with the requirements of Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997. The policy of the Local Plan is to seek to direct industrial and business development primarily to areas specifically identified on the Local Plan maps to limit industrial and business development and their impacts outwith settlement boundaries. Further policies offer exceptions to this approach, however these require consideration of economic benefits, site specific locational need and evidence of having first considered alternative sites. The

criteria meriting approval of such a proposal as contained within Policies IND 6 and 10 are not met in relation to the application.

3.2 There are material considerations relevant to the determination of this application. The consultees have raised no adverse comments, however an issue addressed in the letter of objection relating to the location of this development in the rural area is echoed by this Division. Notwithstanding SPP15, it is considered that the most weight should be attached to the East Ayrshire Local Plan. The proposal is not policy consistent and the material considerations do not outweigh the development plan.

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, 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

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 consideration a full planning application which is before the Local Planning Committee under the scheme of delegation as it is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is a residential property in a rural area on the C33 road from Kilmarnock to Moscow. The house is of modern design and the garden area has hardstanding to the front to allow access; there is a garage to the rear and landscaping to the rear and to the sides. The boundary of the property is defined by hedges to the north east and north west, and by a brick wall to the south east and south west. Vehicular access is via a gated entrance to the north west, immediately off the road. The applicant has indicated that he also owns the land to the rear and side of these boundary features. The site which is proposed to be altered is mostly grass, although there is some hardstanding immediately off the road. The area is enclosed to the north east by hedges and trees, and to the south west by a wood and wire fence. The field slopes down from the road.

2.2 **Proposed Development:** This proposal seeks to alter the existing access to the dwellinghouse by closing the existing gate off the road, and moving the access to the side of the house, create an area of hardstanding to the rear of the property and lay down tarmac to create an access to this hardstanding area. The proposed access, to the immediate south west of the house, is proposed to be fully tarmaced for a distance of 8 metres from the road. For a distance of 40 metres, it is then proposed to be approximately 3.5 metres wide, with a 4 metre wide landscaped area either side. The area to the rear of the house is then proposed to be used as the hardstanding; this is approximately 30 metres by 30 metres. The applicant proposed to use the south east and north east perimeter of this hardstanding to store building materials, place a skip and park a mini-excavator and trailers when they are not in use for his business which concerns the installation of children's outdoor play areas. The remainder of the area is proposed to be used for turning and loading and offloading. The applicant has stated that no vehicles

will be parked on site. The applicant proposes to erect a 1.5 metre high fence to screen the yard and the equipment.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have no adverse comments on the proposal, however they have advised that the applicant must contact the Roads Division for a joint inspection of the existing verges in the area of Sunnyside Cottage, prior to the commencement of any work.

Noted. This can be addressed by attaching an advisory note should consent be granted.

3.2 Moscow Community Council have advised they have no objections to the proposal.

Noted.

4. REPRESENTATIONS

4.1 There has been one objection to the proposal. The objector understands that the applicant intends to run a business to buy, store, erect and sell playground equipment. The applicant has stated that he does not intend to expand his business, and this location is for storage purposes only. The grounds of objection can be summarised as:

4.2 This is a commercial business enterprise which should be located in one of the industrial areas, and should not be located in an agricultural area.

The policies of the East Ayrshire Local Plan generally seek to direct industrial and commercial proposals only to those areas identified for such purposes on the Local Plan maps. The application site does not fall within such an area.

Additionally, however, Local Plan policies seek to limit the types of development which are permissible within the Rural Protection Area; with these including development which contributes to rural land diversification, or development which provides for the operational needs of agriculture or forestry. It is not considered that this proposal falls into these categories.

4.3 There is no indication on the application of an increase in business, which may lead to further applications, for example to put up a warehouse, and this may involve more traffic.

The applicant has stated that he does not intend to expand his business. Planning applications must be assessed on their

individual merits, and this application should not be prejudiced by the possibility of any future applications which may or may not be lodged. Should consent be granted, and any subsequent applications be lodged, these would also be considered on their individual merits.

4.4 Any increase in traffic to maintain or increase this business on this road with an 'S' bend and four blind corners is not viable, and there are already frequent accidents. The road was never built to deal with the size and weight of the traffic now using it, and it has become a "rat run" for commuters to and from the A77 and Kilmarnock.

The Roads Division were consulted on this application, and have offered no adverse comments with regard to road safety. Additionally, the applicant has stated that he is picked up in the morning and dropped off at night; any vehicles or materials to be stored on site would be picked up or dropped off at the same time; as a result there would be no increase in traffic.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that 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).

5.2 The Structure Plan addresses issues at a more strategic level than is applicable in this instance.

Adopted East Ayrshire Local Plan

5.3 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; where it:-

- (i) comprises an acceptable form of residential use as detailed in Policy RES13 of the Local Plan; or
- (ii) can be fully justified in terms of site specific locational need; or
- (iii) can be fully justified in terms of social and economic benefit to the community; or
- (iv) contributes to rural land diversification; or
- (v) provides for the operational needs of agriculture or forestry.

It is not considered that the applicant has provided sufficient information to justify the proposed development against any of the above criteria. The proposal clearly does not constitute a residential use, nor does it relate to the operational needs of forestry or agriculture, as listed in points (i) and (v) above. With regard to point (ii), the applicant has advised that alternative sites would not be capable of being supervised. However it is not considered that permanent supervision of the site is sufficient locational justification for such an enterprise otherwise having no specific requirement to be in the countryside. No persuasive information has been submitted in relation to points (iii) or (iv), and it is not considered that this essentially storage activity accords with these criteria.

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;

As stated above, the applicant has advised that alternative sites would not be supervised; this is not considered sufficient justification alone for the proposal which has no specific locational need to be at this site given the wide ranging geographic nature of the projects undertaken.

- (ii) availability of alternative land/premises in established industrial areas or on land identified as part of the marketable industrial land supply;

The applicant has not demonstrated that they have considered any alternative premises within established industrial areas or on land identified as part of the marketable land supply.

- (iii) economic benefit;

The applicant refers to the business's employment of 5 persons including his wife and himself. This is not considered to amount to an economic justification for the proposed development sufficient to justify approval of the activity in the Rural Protection Area.

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

The plans indicate that a 1.5 metre high fence would be erected around the proposed new access and hardstanding area, and that there would be landscaping to either side of the access to the rear of the property. This may limit the impact on the surrounding area. However, given the conflict with other policies of the Local

Plan, this is not considered sufficient to warrant approval of the application.

- (v) transportation and infrastructure implications;

As stated above, the Roads Division have not objected to this proposal.

- (vi) loss of public amenity open space;

N/A

- (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

N/A

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

It is not considered that the proposal will have a detrimental impact contrary to this criteria.

With regard to Policy IND 6, this proposal meets some of the relevant criteria however it would require to be justified in terms of locational need, economic benefit and consideration of alternative sites in order to be fully compliant with this Policy.

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.

- (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;
- (ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;
- (iii) Sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;
- (iv) Rail freight based industrial uses at existing coal disposal points; or
- (v) Sensitive industrial and business developments with a clearly demonstrated site specific locational need located within the Rural Diversification Area.

The proposed development does not meet any of the above criteria. It is not related to agriculture or forestry nor is it a small scale craft industry and it has no specific need to be located where proposed.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations in the assessment of this application are the Consultations, the letter of representation, and recent national guidance and policy advice on rural development.

Consultations

6.2 The consultation responses received are as detailed above and raise no adverse comments in relation to the application.

Representations

6.3 The letter of objection addresses some issues which are not material to this application, including the state of the road in general, and the possibility of future expansion, which would be considered by a separate application. However, the objector also states that this proposal should be located in a commercial or industrial area, not a rural area. This point is a material consideration

SPP 15: Planning For Rural Development

6.4 This recently published Policy Guidance appears in general to be more positive in promoting certain types of development in rural areas. However, this guidance still favours development which relates to the economic development of the rural area, and to rural diversification where local suppliers have strong ties to the community in terms of employment and service delivery. This proposal is not presented as having a strong local justification in that it relates to a business active all over Scotland and the north of England. In nature and scale it is not considered to merit favourable consideration.

The current local plan presents a raft of opportunities for rural development, however during the review of the plan, account will be taken of the implications of SPP15 and PAN 73 below, and of any requirement to be more supportive of innovative development proposals. Until that time, the current local plan will have the most weight attached to it in the determination of applications.

PAN 73: Rural Diversification

6.5 Comments as per 6.4 above.

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 indicated in Section 5 of the report the proposal is not consistent with policy and should be refused in accordance with the requirements of Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997. The policy of the Local Plan is to seek to direct industrial and business development primarily to areas specifically identified on the Local Plan maps to limit industrial and business development and their impacts outwith settlement boundaries. Further policies offer exceptions to this approach, however these require consideration of economic benefits, site specific locational need and evidence of having first considered alternative sites. The criteria meriting approval of such a proposal as contained within Policies IND 6 and 10 are not met in relation to the application.

8.2 There are material considerations relevant to the determination of this application. The consultees have raised no adverse comments, however an issue addressed in the letter of objection relating to the location of this development in the rural area is echoed by this Division. Notwithstanding SPP15, it is considered that the most weight should be attached to the East Ayrshire Local Plan. The proposal is not policy consistent and the material considerations do not outweigh the development plan.

9. RECOMMENDATION

9.1 It is recommended that this application is 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, 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

07 April 2005
(CP/MMM/IMB)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms and Plans.
2. Statutory Certificates.
3. Consultations.
4. Letter of Representation.
5. SPP 15: Planning for Rural Development
6. PAN 73: Rural Diversification
7. Adopted East Ayrshire Local Plan.
8. Approved Ayrshire Joint Structure Plan.

Anyone wishing to inspect the above papers please contact Claire Peters on 01563 576779.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0081/FL

Site of Proposal: Sunnyside Cottage
KILMARNOCK
KA3 6HU

Nature of Proposal: Proposed Improved Vehicle Access to
House, Storage Yard at Rear of House,
Access Road Between New House Access
and Storage Yard

Name & Address of Applicant: Mr Kenneth F Edgar
Sunnyside Cottage
KILMARNOCK
KA3 6HU

Name & Address of Agent:

DPOs Reference: CP/MMM/

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

1. The proposed development would be contrary to Policies SD3 and IND6 of the Adopted East Ayrshire Local Plan by reason of its location outwith an area specifically identified for industrial or business development, its failure to consider alternative premises and to fully demonstrate site specific locational need
2. The proposed development would be contrary to Policy IND10 of the Adopted East Ayrshire Local Plan since it meets none of the listed criteria which may justify industrial and business development outwith settlement boundaries.

**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.**