

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 DECEMBER 2004**

**04/0526/OL: PROPOSED ERECTION OF DWELLINGHOUSE  
AT BERRYHILL FARM, MOSCOW  
BY MR D WILSON**

### **EXECUTIVE SUMMARY SHEET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Outline planning permission is sought for the erection of a dwellinghouse and associated access road. The formation of the access would involve the felling of some trees in the shelter belt but would afford the best visibility standards as there are dips and visibility obstructions on the A719. The road would be approximately 185 metres long.

1.2 Following continuation of the application at the 26 November 2004 Local Planning Committee, officers have met with the applicant who has subsequently submitted additional supporting information, (see 4.2 of report), which seeks to establish a basis for the proposed house in the context of Government guidance and policy. That aside, there are no changes to the proposal from that presented to Committee in November.

#### **2. RECOMMENDATION**

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

#### **3. CONCLUSIONS**

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 in Section 6 of the report, there are material considerations relevant to this application. These considerations include the additional submissions from the applicants, however it is considered that these refer to current policy guidance from Scottish Ministers already enshrined in the Adopted East Ayrshire Local Plan. These considerations have been assessed

against the Local Plan and are not of sufficient weight to justify approval of the application contrary to the provisions of the development plan.

3.2 The labour assessment report submitted by the applicant fails to demonstrate a need on the farm unit for an additional full time agricultural worker. Correspondence with the agent indicates that their justification for the dwelling comprises both an agricultural one and one based on the need to provide full time management and security at the site. It is also noted that the applicant intends to get married at the start of 2005 and to move out of the current Berryhill farmhouse. There is not considered to be an acceptable agricultural justification for the proposed development and the machinery business effectively has security on site in the form of the existing house. It is also unclear how effective, in security terms, would be the proposed house, which is some 120 metres from the existing premises and accessed off a separate track. The proposed development would therefore constitute the erection of a new dwelling in the countryside without agricultural support or appropriate alternative justification and would therefore not be in accordance with Policies RES 13 and RES 15 of the adopted East Ayrshire Local 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, the application will require to be referred to the Development Services Committee because there will 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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**04/0526/OL: PROPOSED ERECTION OF DWELLINGHOUSE  
AT BERRYHILL FARM, MOSCOW  
BY MR D WILSON**

**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 application is recommended for refusal. The application was continued at the Committee meeting of 26 November 2004 to allow for further discussions with the applicants and to allow for a representative of the Head of Roads and Transportation to be present.

1.2 Officers have met with the applicant who has subsequently submitted additional supporting information, (see 4.2 of report), which seeks to establish a basis for the proposed house in the context of Government guidance and policy. That aside, there are no changes to the proposal from that presented to Committee in November.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The site lies between Berryhill Farm and the A719, just north of Moscow and comprises part of a field currently used for grazing. The surrounding land rises from the A719 towards Berryhill and does not offer significant amounts of screening, although a mature shelter belt to the north of the site would partly screen the access road when travelling south (towards Moscow) on the A719. Berryhill Farm has an established farm machinery supply and repair service employing nine members of staff in addition to the family members. The business operates as a partnership between Mr Wilson (senior) and Mrs Wilson, and Mr Wilson (junior) for whom the new house is intended.

2.2 **Proposed Development:** Outline planning permission is sought for the erection of a dwellinghouse and associated access road. The formation of the access would involve the felling of some trees in the shelter belt but would afford the best visibility standards as there are dips and visibility obstructions on the A719. The road would be approximately 185 metres long.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Moscow and Waterside Community Council has not responded to the consultation letter.

***Noted.***

3.2 The Scottish Environment Protection Agency (SEPA) have no objection to this proposal provided that the drainage arrangements are to SEPA's satisfaction. Their preferred method for the disposal of septic tank effluent is the provision of a sub soil soakaway system. It is therefore recommended that the possibility of providing such a system is investigated. The septic tank and soakaway will require to be designed and constructed in accordance with the current code of practice BS6297:1983 and Part M of the Building Standards (Scotland) Regulations 1990 (as amended). This will require the applicant to carry out percolation testing on site to assess the suitability of the sub-soil for effluent disposal. Surface water should be excluded from the septic tank.

***Should the Committee be minded to approve the application suitable conditions covering the drainage can be added to any planning permission granted.***

3.3 Scottish Water have not replied to their consultation at the time of preparing this report.

***Noted.***

3.4 East Ayrshire Council's Roads and Transportation Division have advised that following amendments to the location of the proposed access road, they have no objections to the application subject to conditions relating to the timing of, and the standard of construction of the road.

***Noted. Should the Committee be minded to approve the application suitable conditions covering the access road can be added to any planning permission granted.***

3.5 Power Systems have no objection in principle to the works but advise that the applicant should be made aware that there is apparatus within/adjacent to the site which may require alteration or protection.

***Should the application be approved, the developers can be made aware by means of a note attached to any planning consent, of the need to make early contact with Power Systems.***

## **4. REPRESENTATIONS**

4.1 No third party objections have been received in respect of the application.

4.2 The applicants have submitted additional information in support of their application, quoting from Government Guidance and Policy as follows:-

### **NPPG15: Rural Development**

#### **Business Rural Areas Section 31**

*“There are many existing business established within rural areas. These range from rural shops and small firms providing professional services to substantial facilities such as farm equipment service centres.... There are attractions to firms and their staff in locating to a rural environment for the ‘quality of life’ it offers. Such firms can also bring new life and activity to rural communities and are generally welcomed and quickly assimilated.*

#### **Development Plans should:**

*Set criteria against which new development proposals, not specifically provided for in the development plan, will be judged”*

***NPPG 15 was issued in February 1999 and its provisions have been accommodated within the Adopted Local Plan, in as much as Policy IND 10 allows for sympathetic business and industrial development associated with agriculture and forestry. It is not the credentials of the business that are assessed within this application.***

### **NPPG3: Land for Housing**

#### **Housing in the Countryside Section 50:**

*“Particular circumstances in which development plan policies could provide for houses in the countryside either in small groups or individual houses include where they might safeguard or contribute to economic activity and employment opportunities; or where they could assist in maintaining rural communities and local services;.....or where the nature of employment requires residents in a particular location.*

#### **Section 51:**

*“The Secretary of State has approved structure plans which identify such opportunities, and he will continue to do so provided the justification for a departure from the overall policy is clearly and fully set out in the structure plan”.*

***NPPG3 “Land for Housing” was revised in 1996 and its provisions are accommodated within the Adopted Local Plan. Rural housing***

***can be appropriate in terms of Policies RES13 and 18 which relate to a demonstrated requirement for a house for a worker in agriculture / forestry / a rural or tourism enterprise or where essential to the operation of the activity. Lowland Crofting is also supported. There are however premises already on site.***

***NPPG3 has itself now been replaced by SPP3 “Planning for Housing” referred to by the applicant below.***

### **SPP3: Planning for Housing**

#### **Housing in Rural Areas Section 50:**

*“In some rural areas, particularly those categorised in NPPG15 and intermediate and remote, new housing outwith the existing settlements may have a part to play in economic regeneration and environmental renewal”.*

#### **Section 52:**

*“Some rural areas in the central belt and Ayrshire have suffered environmental damage from past industries, and well designed new housing development can help in the rehabilitation and renewal”.*

#### **Section 53:**

*“NPPG15 suggests that low impact forms of housing development can provide both economic and environmental benefits”.*

#### **Section 55:**

*“The aim should be to promote development that supports the rural economy and local services, promotes rural regeneration, embodies the principles of sustainable development and enhances the rural environment.*

***Policies in the Adopted Local Plan do not specifically address the requirements of SPP3 which although issued prior to the Adoption of the Local Plan was not published in time for it to be incorporated in the Plan itself. However, it is considered that the Local Plan already offers opportunities for housing in support of economic activity in accord with the spirit of the SPP. There is however a residential property already present at Berryhill.***

### **SPP15: Rural Development: Consultation Draft**

#### **Objectives Section 6:**

*“ NPPG15 said, planning authorities needed to be alert and sensitive to the likely increased demand for new type development in rural areas. It emphasised that planning authorities and agencies involved in rural development should adopt a pro-active approach to providing land for development. This message remains relevant. Although many diversification projects have been implemented, the research has shown that the proactive approach promoted by the NPPG15 has not been embraced everywhere. There was a concern that there is insufficient clarity about what the planning system is aiming to achieve in rural areas. In particular, it highlighted a need for a vision to help guide policy making and development control decisions”.*

**The Role of Planning Section 9:**

*“Rural areas depend on urban areas for a range of services while providing quality, recreational and leisure experiences for the urban population. Rural diversification should be embraced to help businesses, land manager and farmers expand or start new enterprises in appropriate circumstances and at an appropriate scale. It is important therefore for planning authorities to be aware of new trends, pressures and opportunities and be ready to act positively but sensitively”.*

**New Development Section 10:**

*“More opportunities appropriate in scale, kind and location, should be identified by planning authorities. Even in the heavily populated areas there is potential e.g. areas able to accommodate some small scale housing development may be identified and businesses may be able to diversify further into new activities”.*

**Economic Development Section 13:**

*“Planning Authorities should support a wide range of economic activity in rural areas and seek environmental enhancement through development at every opportunity... Most of the measures are intended to help farm businesses build a more financial environmental sustainable future. Long established uses (such as quarries and garages) are essential but not always attractive environmentally. Nevertheless, they form an important part of the local economy and have their own legitimate need for land...”*

**Diversification Section 15:**

*“Many land owners including farmers, have already diversified some of their activity away from traditional farming and forestry. Many other rural businesses are also expanding into new areas. Further diversification of rural economy should be encouraged and there is enormous scope to exercise initiative and creativity. Planning policy has to be in tune with this fundamental economic reality. Planning authorities along with others can support diversification in ways that benefit the economy and lead to good development on the ground”.*

**Section 16:**

*“The formation of some new businesses can depend on having new build or conversion housing, for sale, or rent, providing early funding development plans should identify areas where housing and business, opportunities can be advanced together”.*

**Housing Section 18:**

*“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.*

**Implementation Section 35:**

*“Planning permission should be granted for developments which conform to the principles and objectives as described in this statement. In some cases alterations to plans and supplementary planning guidance will have to be prepared quickly to ensure that development plans accord with this SPP.*

***The applicants have highlighted aspects of the Consultation Draft supportive of their argument that there is a case for a further house at Berryhill. Section 18, quoted above in part, also refers to SPP3 being the “first point of reference on the general policy for housing” and makes it clear that the purpose of the Consultative Draft SPP15 is to “advance policy in respect of small scale rural housing developments.” However, at the present time, SPP15 does not exist in any form other than as a Consultation and its contents have no force in the determination of this 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 (EALP).

**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 supporting information provided fails to demonstrate that the proposal has a site specific need to be located outwith the settlement boundary.***

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

***A new house in the rural area cannot be justified in terms of social and economic benefit to the community.***

**C** contributes to rural land diversification: or

***This proposal would not contribute to rural land diversification.***

**D** provides for the operational needs of agriculture and forestry.

***The applicant has not demonstrated that the new house is required for the operational needs of agriculture or forestry.***

***As it stands, the application is contrary to structure plan policy as the location of the proposed house in the Rural Protection Area has not been justified.***

#### East Ayrshire Local Plan

5.3 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. One of those purposes is pertinent to the application under consideration:

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (ii) for a worker employed by a rural enterprise or a 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;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

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.

In addition, the policy enables the Council to request applicants for the categories of residential development described above, to justify their proposals through the submission of detailed supporting information.

***As stated under policy G5 of the AJSP, the applicant's supporting information fails to justify the location of the proposed house in the Rural Protection Area in terms of the operational needs of agriculture on the farm unit. The labour assessment report submitted by the applicant does not demonstrate the need for an additional full time agricultural worker on the farm unit. The applicant has submitted that the house is for his use in the operation of an agricultural machinery business established for many years at Berryhill Farm and in connection with a beef finishing business. The livestock element of the business is shown as generating a requirement for 0.46 labour units. The applicant's parents are partners in the business and stay in the existing Berryhill farmhouse that is attached to the farm buildings that are currently used for storage serving the machinery business. In this respect, criteria (i) of RES 13 is not met and there is already accommodation in close vicinity to the machinery enterprise able to offer security. The application is therefore contrary to policy RES 13.***

5.4 Policy RES15 requires applicants for any new residential development in the countryside deemed acceptable in terms of Policies RES13 and 14 of the local plan, to meet two stated criteria, as follows;

- (i) to utilise any existing buildings which are considered capable of residential use in preference to the construction of new build housing; and
- (ii) to utilise areas of derelict or degraded land in preference to the development of greenfield land.

The policy also states that, in all cases, any new housing development will be required to consolidate and compliment existing farm steadings or small groups of houses, in preference to being isolated in the countryside.

***The applicant fails to demonstrate that the principle of a house at this rural location is acceptable in terms of policy RES 13 above, or that, existing buildings are incapable of conversion to residential use or no degraded land is capable of residential development. The proposed site is isolated from the main grouping of farm buildings at Berryhill Farm which is contrary to policy RES 15 above. The site would need to be relocated much closer to the existing farm in order to comply with this policy.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, submissions from the applicants and the impact of the house as proposed on the visual amenity of the area.

### Consultations Responses

6.2 The consultation replies do not indicate that the application should be refused.

### Representations

6.3 The submissions on behalf of the applicants are referred to in detail above but are not considered to be of such weight as to merit approval of the application.

### Visual Impact

6.4 The proposed house being conspicuous in the countryside and remote from the existing farm steading would represent an unwarranted visual intrusion in the countryside.

## **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 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 in Section 6 of the report, there are material considerations relevant to this application. These considerations include the additional submissions from the applicants, however it is considered that these refer to current policy guidance from Scottish Ministers already enshrined in the Adopted East Ayrshire Local Plan. These considerations have been assessed against the Local Plan and are not of sufficient weight to justify approval of the application contrary to the provisions of the development plan.

8.2 The labour assessment report submitted by the applicant fails to demonstrate a need on the farm unit for an additional full time agricultural worker.

Correspondence with the agent indicates that their justification for the dwelling comprises both an agricultural one and one based on the need to provide full time management and security at the site. It is also noted that the applicant intends to get married at the start of 2005 and to move out of the current Berryhill farmhouse. There is not considered to be an acceptable agricultural justification for the proposed development and the machinery business effectively has security on site in the form of the existing house. It is also unclear how effective, in security terms, would be the proposed house, which is some 120 metres from the existing premises and accessed off a separate track. The proposed development would therefore constitute the erection of a new dwelling in the countryside without agricultural support or appropriate alternative justification and would therefore not be in accordance with Policies RES 13 and RES 15 of the adopted East Ayrshire Local Plan.

## **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 because there will be a significant departure from Council policy.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

07 December 2004  
(DVM/MMM)

FV/DVM

## **LIST OF BACKGROUND PAPERS**

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Labour Assessment Report prepared by SAC.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above background papers should contact Ailsa Graham on 01563 576787

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0526/OL

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Site of Proposal: Berryhill Farm  
MOSCOW KA4 8PR

Nature of Proposal: Erection of New Dwellinghouse

Name & Address of Applicant: David Wilson  
Berryhill  
MOSCOW KA4 8PR

Name & Address of Agent: Grant Murray  
30 Bell Street  
GLASGOW G1 1LG

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DPOs Reference: DVM/MMM

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

1. The proposed development would constitute the erection of a new dwelling in the countryside without sufficient agricultural or other justification and would therefore not be in accordance with Policies RES 13 and RES 15 of the Adopted East Ayrshire Local Plan.
2. The proposed development would be contrary to policy G5 of the Ayrshire Joint Structure Plan in that a locational need for a new dwellinghouse in the countryside has not been justified.
3. The proposed development would constitute an unwarranted visual intrusion in the open countryside.

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