

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007

**06/0619/FL: ERECTION OF DWELLINGHOUSE
AT EAST BLACKBYRES FARM, WATERSIDE
BY MR ALAN CAREY**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The planning application relates to an L-shaped, recently approved replacement stable block and is in part retrospective. The applicant has commenced the redevelopment of the western most section of the stables to provide a dwellinghouse. The remaining part of the L shape building is to be retained as stables. The applicant has started to construct the dwellinghouse, he has raised the roof of the structure and formed three dormer windows in the western facing roof slope. The applicant has also formed the window openings on the ground floor and has installed the framing for the internal stud partition walls. The applicant has not proposed any works to the access road or junction with the A719 as part of this proposal.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet and that Enforcement Action be commenced to rectify the breach of planning control.

3. CONCLUSIONS

3.1 As stated in Section 5 of the report, this application fails to accord with the Development Plan. A new building was granted at the location for use as stables. The applicant has already started to convert that building to residential use, thereby forming a residential property that is not warranted on the basis of the applicable Council policies. 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, the majority of these are considered to support the recommendation of refusal, with none of sufficient weight to merit 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 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.

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06/0619/FL: ERECTION OF DWELLINGHOUSE AT EAST BLACKBYRES FARM, WATERSIDE BY MR ALAN CAREY

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, since it has been the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a previously approved stable block located in the north-western corner of the steading at East Blackbyres Farm. The farm is located approximately 1.2km to the east of Waterside. Access to the site is taken from the A719 just to the south of Waterside via a minor private road which also serves the village community hall and West Blackbyre Farm.

2.2 **Proposed Development:** The planning application relates to an L-shaped, recently approved replacement stable block and is in part retrospective. The applicant has commenced the redevelopment of the western most section of the stables to provide a dwellinghouse. The remaining part of the L shape building is to be retained as stables. The applicant has started to construct the dwellinghouse, he has raised the roof of the structure and formed three dormer windows in the western facing roof slope. The applicant has also formed the window openings on the ground floor and has installed the framing for the internal stud partition walls. The applicant has not proposed any works to the access road or junction with the A719 as part of this proposal.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division recommend deferral of the application as the existing access road does not permit the safe

passage of vehicles or pedestrians and will require the following improvement works to be undertaken prior to commencement of any building works. The road fronting the community centre should be widened to allow for a 2.0 metre wide footway, a carriageway of 5.5 metres and a 2.0 metre wide verge on the opposite side.

3.2 The above road-works must be constructed to adoptable road standard for which a road construction consent must be obtained. This will involve the provision of surface water drainage and street lighting in the design in addition to the road construction. The remainder of the access road will require intervisible passing places to be formed, with a standard residential turning head at the end of the road.

3.3 These passing places and turning head need not be constructed to adoptable road standard.

The applicant has failed to address any of the requirements of the Roads Division, therefore they would recommend refusal of the proposal as it stands.

3.4 Moscow and Waterside Community Council object to the proposal for the following reasons:

- There is no rural justification for this development.
- The access road is a non adopted single track with no passing places, and privately owned by another resident for the first time.
- The site lines from the proposed access road onto the A719 are, in our opinion, inadequate.
- The proposed septic drainage is into the existing septic tank which is more than 30 years old.
- The building is in existence, after retrospective planning permission being granted, and yet the current application is for a new build.

The Council accept that the building has been largely constructed and that no justification has been submitted by the applicant. As stated previously the applicant does not propose any change to the access or around the junction and the question of the suitability of the septic tank would be likely to be resolved if consent were granted.

3.5 Scottish Water advise that they have no objections to the proposal, however there are no public sewers in the vicinity.

Noted.

3.6 SEPA have not responded in relation to this proposal.

Noted.

4. REPRESENTATIONS

The proposal was advertised as a departure from the development plan and two letters of objection have been received from three parties raising the following concerns:-

4.1 The property is accessed by a one-mile, single track farm road with no passing places. Another property would increase the amount of traffic through a working farm, on a road where farm livestock are regularly moved. Any increase in traffic would have a detrimental effect on the farm business at West Blackbyre Farm. It is also stated that visibility at the end of the track with the A719 is restricted.

The Council Roads and Transportation Division have recommended junction improvements and road widening to the existing track adjacent to the A719. They have further requested that passing places be provided along the remainder of the track to the farm and that a turning head be formed at the end of the road. To date, the applicant has failed to address any of these matters and the Roads Division would recommend refusal without them.

4.2 The objector is concerned that East Blackbyre Farm was sold as a single residential property, served only by a single traditional brick built septic tank.

Although SEPA have failed to respond, it is likely that planning conditions could be attached to the grant of any consent to achieve a satisfactory drainage solution for the property.

4.3 The objector notes that the Council's Local Plan section on rural housing requires a justification in terms of site specific locational need and he further states that there is no business at this location.

The applicant has failed to provide a justification in terms of the site specific locational need for the property and it is therefore considered to be contrary to Policy RES13 in the Adopted Local Plan.

4.4 The objector also refers to the earlier stable application (04/1097/FL) expressing concern at the failure to neighbour notify on that proposal and how after a relatively short period an application is lodged for what is tantamount to a

new build. He also highlights the concerns of the Community Council to that application in their letter to Planning. Claiming similarly that there was an attempt to 'bypass planning regulations' and failed to address the various road safety implications for the small privately maintained road.

At the time of the 2004 stable application, the applicant certified that all the necessary neighbour notifications had been undertaken. In terms of the proposal itself, each planning application is judged on its own merits and although possibly a large stable, it was considered acceptable, given its location and design.

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 (AJSP) and the Adopted East Ayrshire Local Plan (EALP).

Ayrshire Joint Structure Plan – Approved Version

5.2 Policy G5 states that development proposals outwith settlements in the Rural Protection Area shall conform to the structure plan only where the development:

- A has a demonstrated site specific locational need;
- B can be justified in terms of social and economic benefit to the community;
- C contributes to rural land diversification: or
- D provides for the operational needs of agriculture and forestry.

No justification as to why the house requires to be located on this particular site in the Rural Protection Area has been submitted. The proposal meets none of the above criteria and is therefore contrary to policy G5.

East Ayrshire Local Plan

5.3 Policy RES 13 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.

- (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 development for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

The applicant has not submitted any supporting information to justify the proposal against any of the above criteria. The proposal is therefore contrary to policy RES 13.

5.4 Policy RES22 of the East Ayrshire Local Plan requires all developers to observe the minimum standards for the provision of private open space detailed in Schedule 4 of the Local Plan.

Although not having specifically delineated any garden ground, it is considered that there is sufficient space within the farm steading to satisfy this requirement

5.5 Policy RES 7 of the East Ayrshire Local Plan relates to rehabilitation or conservation to residential use of existing, and traditionally designed and constructed buildings both within settlements and the rural area, subject to a number of criteria.

Although described as a 'Change of Use' the proposal is not considered to relate to a form of building applicable under Policy RES7 and is in effect a new build house in the countryside.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the letters of representation, the planning history, the Finalised Replacement Ayrshire Joint Structure Plan and the impact of the development on the amenity of the area.

Consultation Responses

6.2 The applicant has failed to address the concerns of the Council's Roads Division; both they and the Community Council object to the proposal. Although Scottish Water raised no objections, it should be noted that SEPA failed to reply.

Representations

6.3 The representations have been summarised in Section 4 of the report and several of the points raised support the recommendation for refusal.

Planning History

6.4 Planning application 04/1097/FL for a proposed replacement stable block 300 m² was conditionally approved on 18th February 2005.

Replacement Ayrshire Joint Structure Plan – Finalised Version

6.5 The replacement Ayrshire Joint Structure Plan has recently been submitted to the Scottish Ministers for consideration and is a material consideration in the assessment of the application. Policy COMM5 is pertinent to the proposal and states:

COMM 5 Housing in the Countryside

“Throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the to meet the operational requirements of agriculture and other rural businesses.”

There is no justification as to why the house requires to be specifically located on the site. Therefore, it does not meet any of the above criteria and is considered to be contrary to Policy COMM5.

Impact on the Amenity of the Area

6.6 The partly formed dwellinghouse is considered to occupy a visually prominent location in the surrounding countryside and with its lack of appropriate justification, it is considered to have a significant detrimental impact on the amenity of the surrounding rural area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 Although there are no direct financial implications for the Council at this time, in the event the Committee determine to refuse the application, it is recommended that Enforcement Action be commenced to rectify this breach of planning control. Dependent on the outcome of such enforcement action, there may be financial implications for the Council arising from possible future actions to secure the structure's return to its approved use.

8. CONCLUSIONS

8.1 As stated in Section 5 of the report, this application fails to accord with the Development Plan. A new building was granted at the location for use as stables. The applicant has already started to convert that building to residential use, thereby forming a residential property that is not warranted on the basis of the applicable Council policies. 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, the majority of these are considered to support the recommendation of refusal, with none of sufficient weight to merit approval of the application.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet and that Enforcement Action be commenced to rectify the breach of planning control.

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

05 February 2007
(WS/IMB/RH)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Finalised Replacement Ayrshire Joint Structure Plan.
8. Planning History.

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: 06/0619/FL

Site of Proposal: East Blackbyres Farm
WATERSIDE
Kilmarnock KA3 6JH

Nature of Proposal: Erection of dwellinghouse.

Name & Address of Applicant: Mr Alan Carey
East Blackbyres Farm
WATERSIDE
Kilmarnock KA3 6JH

Name & Address of Agent: N/A

DPO's Reference: WS/IMB

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

1. The proposal is considered to be contrary to Policy RES13 of the Adopted East Ayrshire Local Plan, as it relates to a new dwellinghouse in the countryside which fails to satisfy any of the relevant criteria or provide a site specific locational need for a house within the Rural Protection Area.
2. The proposal is considered to be contrary to Policy G5 in the Approved Ayrshire Joint Structure Plan and Policy COMM 5 in the Finalised Replacement Ayrshire Joint Structure Plan as there is no supporting justification for a house in this rural location.
3. The proposal is considered to be detrimental to traffic safety on the A719 and the access track, as the applicant has failed to address and provide the road and junction improvements considered necessary by the Council's Roads and Transportation Division.

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