

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 18 JUNE 2004

**04/0218/FL: CHANGE OF USE FROM DOMESTIC GARAGE TO SPORTING
GUN DEALERSHIP
AT CORSEHOUSE FARM, STEWARTON
BY MR N SUTHERLAND**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Retrospective planning permission is sought to change a domestic garage, which is attached to the house, into a sporting gun dealership. The shop will be 42 square metres in area.

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 indicated at Section 5 of this report, the application is consistent with the policies of the Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan, therefore, given the terms of Section 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. The scale of the proposed shop (42 square metres) and the availability of on site security all indicate that the operation of a gun dealership at Crosehouse Farm would have little impact on the surrounding area, and a negligible impact on the vitality and viability of local town centres. It is therefore considered that this application should be approved, with additional control exercised by attaching a condition that the consent be personal to the applicant only.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development & Building Standards

Division the application will not require to be referred to the Development Services Committee as there would 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 determination a retrospective application, which is to be considered by the Local Planning Committee as it is contrary to the Development Plan, and is the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises of a modern detached house on a former farm, located northwest of Stewarton on the B769.

2.2 **Proposed Development:** Retrospective planning permission is sought to change a domestic garage, which is attached to the house, into a sporting gun dealership. The shop will be 42 square metres in area.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Scottish Environment Protection Agency have raised no objections to the application.

Noted.

3.2 East Ayrshire Council's Roads and Transportation Division have advised that the sightlines of the existing access do not meet the current standards, and will therefore require to be improved. This can be achieved by relocating the access onto the B769.

Noted. Conditions can be attached to any grant of planning permission covering the improvements of the access onto the B769.

3.3 Stewarton and District Community Council object to the application for the following reasons:

- i) The location of a gun shop in the countryside is inappropriate, and the security of the building being of concern.

Noted. See Section 6 below.

- ii) The opening of a shop will create extra traffic on an already busy road. Although the application states that one vehicle a day is anticipated, one would expect that a business requires greater vehicular traffic to survive.

Noted. Conditions can be attached to the grant of any planning permission concerning access onto the B769. East Ayrshire Roads and Transportation Division have not raised any concerns about the number of vehicles visiting the site.

3.4 Strathclyde Police indicate that it is acceptable for the applicant to allow persons to test guns on his grounds, provided it is under his supervision.

Noted. The Police are aware of the applicant's activities and confirm that any formal firing range would require approval from the Ministry of Defense.

3.5 Environmental Health has indicated that test firing at the level of frequency proposed would not be likely to be of concern.

Noted. There are separate controls over noise nuisance, which can be operated where a statutory nuisance arises. Notwithstanding that, the level of activity is not considered to be such as to be problematic. Any intensification or change of the use can be re-assessed were that to happen.

4. REPRESENTATIONS

4.1 Letters of objection have been received from Stewarton and District Community Council, as detailed in Section 3 of this Report, and one other. The grounds of objection are:

- i) Should clay pigeon shooting or a rifle range be established here, neighbouring property would be disturbed by the noise.

This application is for a change of use to create a shop only. The applicant has stated that prospective purchasers of firearms have an opportunity to try them on his open land adjacent to the shop, and under his supervision. Strathclyde Police are aware of this arrangement.

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 Within the Ayrshire Joint Structure Plan, Policy L8 is the most relevant to applications for diversification into retailing and commercial activities. However Policy L8 is aimed at larger scale operations which should be firstly directed to town centre locations to ensure that their viability and vitality is maintained.

This application to sell firearms in a rural location would not adversely affect the viability of nearby town centres due to the small scale nature of the business. In addition, the location of a gun dealership in an area remote from centres of population is considered acceptable for safety reasons.

East Ayrshire Local Plan

5.3 Policy SD3 states that, within the Rural Protection Area, development proposals relating to land outwith settlement boundaries will be acceptable to the Council only in five stated circumstances, only two of which are pertinent to this application. They are locational need and rural land diversification.

In terms of specific locational need, locating the gun dealership in a rural area rather than a town centre or edge of centre site enables the applicant to provide 24 hour on site security and the opportunity for his clients to test, under supervision, the equipment. Strathclyde Police in issuing a licence for the dealership have indicated that they are content with its location, the testing of equipment and the applicant's credentials.

5.4 Policy RTC 5 states that in assessing all out-of-centre retail and other Schedule 5 development proposals, the Council will have regard to certain stated factors, covering the affect on the vitality and viability of town centres and impact on the surrounding area.

This application to sell firearms and associated equipment in a rural location would not adversely affect the viability of nearby town centres due to the small scale nature of the business. In addition,

the location of a gun dealership in an area remote from centres of population is considered acceptable for safety reasons.

5.5 Policy RTC 7 supports retail development proposals in out-of-town centre locations in certain stated circumstances.

The application concerns the operation of a activity which is consistent with criteria (v) of Policy RTC 7 in that it includes a leisure or recreation related retail development.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material consideration relevant to the determination of the application are the consultations detailed in Section 3 of the report, and the representations detailed in Section 4.

6.2 The consultation responses are supportive of this application, as are Strathclyde Police. Locating a gun shop within an urban area would not be ideal due to safety and security issues and hence the proposed site has its merits in this respect. However the retailing of goods other than those directly associated with the use, maintenance and safety of firearms, would not be acceptable as the sale of such items, for example, outdoor clothing should be directed to town centre locations. Restrictions on the type of goods being retailed at Corsehouse could be controlled by conditions on the grant of any planning permission.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application.

7.2 In the event that the application was refused, the issue of enforcement action would arise and discussions about relocating the activity would commence.

8. CONCLUSIONS

8.1 As indicated at Section 5 of this report, the application is consistent with the policies of the Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan, therefore, given the terms of Section 25 and 37 (2) of the Town & Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. The scale of the proposed shop (42 square metres) and the availability of on site security all indicate that the operation of a gun dealership at Crosehouse Farm would have little impact on the surrounding area, and a negligible impact on the vitality and viability of local

town centres. It is therefore considered that this application should be approved, with additional control exercised by attaching a condition that the consent be personal to the applicant only.

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 & Building Standards Division the application will not require to be referred to the Development Services Committee as there would no significant breach of Council policy.

Alan Neish
Head of Planning, Development and Building Standards

10 June 2004
(AG/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plan.
2. Statutory Notices/Certificates.
3. Letters of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).

Anyone wishing to inspect the above papers please contact Ailsa Graham on 01563 576787.

Implementation Officer: Dave Morris

040218FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0218/FL

Site of Proposal:	Corsehouse Farm Old Glasgow Road STEWARTON
Nature of Proposal:	Proposed change of Use from Domestic Garage to Sporting Guns Dealership
Name & Address of Applicant:	Mr Neil Sutherland Corsehouse Farm Old Glasgow Road STEWARTON KA3 5JJ
Name & Address of Agent:	Brae Architectural Services Laighmuir Villa 5 Main Street DUNLOP KA3 4AT

DPOs Reference: AG/MMM

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

1. The permission hereby granted shall not enure for the benefit of the land/buildings but for the benefit of Neil Sutherland only, and on discontinuance of his occupation of the land/building the use hereby permitted shall cease and the land/building shall be restored to its original use.

REASON Permission is being granted in this case solely because of the specific personal circumstances

2. Notwithstanding the plans hereby approved a new access to the main road (B769) shall constructed with sightline standards $x = 2.5$ metres and $y = 160$

metres as per the indicative detail attached to this consent. Details of the access location and construction specifications shall be submitted to, and approved by the Planning Authority, before any other development commences on site. These improvements shall be implemented within 3 months of the date of this consent.

REASON In the interests of road safety.

3. The sale of items other than firearms, ammunition and safety equipment shall only be acceptable to the extent of it being ancillary to the operation of a sporting gun dealership.

REASON To enable the Planning Authority to retain control over the use of the site and to ensure that the development accords with the policies of the Adopted 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.**