

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 18 MARCH 2005

**04/1045/FL: PROPOSED ERECTION OF CUBICLE SHED AT TOWERHILL
FARM, KILMAURS
BY MR T McFADZEAN**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to erect a steel portal agricultural cubicle shed for livestock 30.74 metres by 45.7 metres and approx. 9.3 metres in height above existing ground level at its highest point. The wall would be constructed of 1.7 metre high blockwork with green gale breaker bay screen above on the side elevations, while the end elevations would have timber slats. The roof would be fibre cement sheeting. In addition, there would be a concrete apron formed (12m x 30.74m) at the east end of the shed. The front of the cubicle shed would be approximately 18.5 m away from the nearest house in Towerhill Avenue (no. 71) although the concrete apron would be within 12m of this house. The shed and apron are approx. 6.5m away from the boundary fence with No. 71 Towerhill Avenue. The applicant's dairy herd is presently housed in a propped steel portal framed building within the existing steading. The fabric of that building, together with the poor state of the existing individual cubicles and feeding arrangements, means that the applicant fails to comply with the Scottish Dairy Farm Quality Assurance Scheme (SDFQA). Production methods and welfare needs have improved meaning that the spatial requirements for housed stock has increased dramatically. The existing cubicle bed size is only 2.0 metres by 1.05 metres, whereas the preferred dimension in current guidelines is 2.4 metres by 1.2 metres. The smaller cubicle bed could result in injury to the cow and causes stress to the herd. Due to the position of the columns, it cannot be upgraded to meet the spatial requirements of the Legislation. It would however suit the housing of young stock, which the applicant would intend to do.

Failure to meet the requirements of the SDFQA Scheme may result in the milk company refusing to purchase the milk output from the farmer.

2. RECOMMENDATION

2.1 It is recommended that the Committee agrees that this proposal is unacceptable for the reasons indicated on the attached sheet and that this view be submitted to the Scottish Ministers for their consideration in the determination of the current appeal relative to this application.

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 and Country Planning (Scotland) Act 1997.

3.2 There are material considerations relevant to the determination of this application. Principally these comprise of the impact of the cubicle shed on adjacent residential properties. The considerations add weight to the development plan and to refusal of the proposed development. In the content of the appeal it is considered that the Council's position should be one of recommending that the application to be refused and in that regard, this report can be submitted to the Scottish Ministers for consideration in their determination of the appeal.

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 and such a favourable recommendation would be made known to the Scottish Ministers.

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 objections. The application is subject to an appeal to the Scottish Ministers on the basis of non-determination and for that reason the Committee is requested to form a view on the proposal which will be the basis of the Council's submission in respect of the appeal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is an operating dairy farm at Towerhill on the east side of Crosshouse Road, Kilmaurs. The existing steading has a variety of livestock accommodation in sheds of various sizes and type of construction. Also within the steading are several silage clamps which have recently been roofed over. These clamps are on the eastern edge of the steading which is bordered by a residential area. The majority of the farm steading is on level ground though it rises towards the field immediately to the south. This field also rises towards Towerhill House on the western boundary.

2.2 **Proposed Development:** It is proposed to erect a steel portal agricultural cubicle shed for livestock 30.74 metres by 45.7 metres and approx. 9.3 metres in height above existing ground level at its highest point. The wall would be constructed of 1.7 metre high blockwork with green gale breaker bay screen above on the side elevations, while the end elevations would have timber slats. The roof would be fibre cement sheeting. In addition, there would be a concrete apron formed (12m x 30.74m) at the east end of the shed. The front of the cubicle shed would be approximately 18.5 m away from the nearest house in Towerhill Avenue (no. 71) although the concrete apron would be within 12m of this house. The shed and apron are approx. 6.5m away from the boundary fence with No. 71 Towerhill Avenue. The applicant's dairy herd is presently housed in a propped steel portal framed building within the existing steading. The fabric of that building, together with the poor state of the existing individual cubicles and feeding arrangements, means that the applicant fails to comply with the Scottish Dairy Farm Quality Assurance Scheme (SDFQA). Production methods and welfare needs have improved meaning that the spatial requirements for housed stock

has increased dramatically. The existing cubicle bed size is only 2.0 metres by 1.05 metres, whereas the preferred dimension in current guidelines is 2.4 metres by 1.2 metres. The smaller cubicle bed could result in injury to the cow and causes stress to the herd. Due to the position of the columns, it cannot be upgraded to meet the spatial requirements of the Legislation. It would however suit the housing of young stock, which the applicant would intend to do.

Failure to meet the requirements of the SDFQA Scheme may result in the milk company refusing to purchase the milk output from the farmer.

2.3 The siting of the new cubicle shed is crucial to the efficient working of a modern dairy unit. Housing for dairy livestock should be sited as close as possible to the milking parlour, and the cows must flow to and from this parlour with as little movement as possible outside. This reduces the amount of dirt being carried into the clean environment of the milking parlour. Cubicle sheds are designed to keep separate the feeding operations and the movement of livestock – in this instance the east elevation (that is closest to Towerhill Avenue) would be used for accessing the shed with the feed wagon from the 12 metre wide concrete apron.

2.4 The most cost effective method of storing slurry produced in the cubicle shed would be to scrape it from the stances and passages and store it in an outside circular metal store. However, due to the proximity of residential properties, the applicant has elected to use the more expensive option of underground tanks below a slatted floor in the cubicle shed. This would minimise odours. SEPA advise that these tanks should have sufficient storage capacity for 6 months. When the slurry tanks have reached their capacity, the liquid slurry is drawn off at the pumps on the west elevation of the shed, and then used as a grassland fertiliser in accordance with best practice guidance.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental and Waste Management Division have no adverse comments on the proposal. The Service is aware of a degree of objection and complaint from nearby residents however they note that this has been a working farm for generations and the service have no powers to curtail any activities other than in circumstances where a specific nuisance were to be confirmed.

Noted.

3.2 Scottish Water have advised that they have no comments to offer in respect of this application.

Noted.

3.3 The Scottish Environment Protection Agency have advised that they have no objections in principle to the erection of this new cattle housing facility provided the drainage and construction works meet with their approval. The main requirement is for the applicant to provide 6 months slurry storage capacity on the farm. Based on the information provided in the drawings and that held by SEPA for stock numbers the proposed slurry storage tanks together with existing facilities on the farm will provide the requisite 6 month capacity.

Noted. SEPA have met with the applicant and agent on site during February 2004 and the requirements of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 2003 have been outlined. The slurry from the cubicle shed will be stored in tanks under the shed.

3.4 Kilmaurs Community Council have not responded at the time of writing the report.

Noted.

4. REPRESENTATIONS

4.1 Eight letters of objection have been submitted from thirteen individuals in respect of this application. The majority of the objectors live in the new housing development adjacent to Towerhill Farm at Towerhill Avenue. The grounds of objection can be summarised as:

4.2 The application does not accord with the environment policies of the Adopted East Ayrshire Local Plan – ENV 13, 14, 19 and 20 or Policy E19 of the Approved Ayrshire Joint Structure Plan. Given the cumulative effect of this and previous applications on the farm the application should be assessed for visual impact and affect on character of the area, as well as adverse affects on the quality of water resources.

Noted. Policy ENV 13 is intended to maintain and enhance the landscape character and quality of the countryside by ensuring that any development “is in keeping with, has minimum visual impact and reflects the nature of the rural area in which it is located”. It also requires developments to be “sensitively sited” so as to “respect and complement the landscape characteristics of the particular area”. It is not considered that the proposed development, taking into account it’s proximity to a residential area, is sensitively sited or has a minimum visual impact on the area in which it is located.

Policies ENV 14 iv) and ENV19 cover a development’s impact on watercourses and land drainage. It is noted that Scottish Water has no objections to the proposal. SEPA’s comments are detailed above, and the detailed implications may be a matter for Building Standards.

Policy E19 of the Ayrshire Joint Structure Plan relates to the handling, treatment or disposal of waste and the handling of liquid and solid by-products of water and sewerage treatment.

SEPA in their response (para 3.3 above) have indicated that they are satisfied with the proposed slurry storage. They have further confirmed that they are content for the surface water run off from the concrete apron and roof water run off to be directed into existing field drains. Policy ENV 20 concerns the use of Section 75 Agreements. This is not considered appropriate for a working farm where planning conditions could address relevant issues.

4.3 The height of the cubicle shed would be visible throughout the area and affect residential amenity by virtue of blocking light to neighbouring houses which sit at a lower level than the field in which the shed would be built. It would adversely affect the rural outlook of Towerhill Avenue. The cumulative impact of the silage clamp sheds and the proposed sheds would be unacceptable.

Views of the proposed agricultural style shed from a distance are not considered inappropriate given the existence of the current farm. However, the cumulative impact of this proposal in addition to previous consents in relation to the adjacent housing development at Towerhill has been fully assessed and it is not considered acceptable to locate such a new large development in close proximity to residential properties. The large raised concrete apron for the gathering and management of cattle is immediately adjacent to housing which adds to concerns regarding detrimental impact on amenity. The applicant's agent has been advised of these concerns and has chosen not to amend the application.

4.4 The form and siting of the cattle shed is contrary to the national planning advice contained in Planning Advice Note (PAN) 39 – Farm and Forestry Buildings, and Circular 5/1992.

- PAN 39, section 21 lists key issues to be taken into consideration in the design of farm buildings. These are siting, visual impact and concern for surrounding properties.
- PAN 39, section 28 states that slurry tanks should be placed downwind and away from houses
- PAN 39, section 32 advises that large buildings should not be located close to small ones.
- Circular 5/1992 introduces a cordon sanitaire of 400 metres around buildings used for intensive livestock accommodation in order to protect residential property from obnoxious odours

Noted. A full planning application has been made as required for a building of this size and its proximity to residential properties, as detailed in Circular 5/1992. The 400m stipulation is a trigger for an application where otherwise that might not be the case. Full cognisance has been taken of the advice contained in PAN 39.

Section 21 seeks to harmonise the siting of new agricultural buildings with their surroundings. It is noted that the advice in this PAN should be seen as indicative rather than prescriptive. However, as well as considering the operational requirements of the farm it is equally necessary to consider the visual impact, scale and form of the building on the surroundings. In terms of this proposal, it is considered that operational requirements of the farm cannot outweigh the detrimental impact of the proposed development on the adjacent housing.

Section 28 PAN 39 gives advice on the location of slurry tanks. As described in Para 2.2 above, the slurry tanks for this application will be located below the cubicle shed thereby decreasing odours. Section 28 acknowledges that slurry tanks are best sited away from housing, however it adds; "other functional considerations such as the need to be close to livestock buildings and the need to avoid pollution of water courses will influence the siting." Nevertheless, the current proposal is considered to be unacceptable due to its scale and proximity to the adjacent housing development.

4.5 As the cubicle shed is a ventilated shed without solid walls, neighbouring houses will be affected by noise from the cows and vehicles moving in the vicinity, as well as odours from the slurry. The noise from 180 cows can only have a detrimental effect on the residential area.

Although the Council's Environmental and Waste Management Division have raised no objections (see para 3.1 above), it is accepted that due to the close proximity of the shed and the existence of the raised concrete apron directly adjacent to a housing development, there will be additional noise and odours compared to the existing situation.

4.6 There are already drainage problems due to the existing silage clamp shed and if the water run off from the proposed shed is allowed to be fed into the existing field drains the problem of local flooding will be exacerbated.

In their consultation response SEPA have indicated that they have no objections to the proposal. Surface water run off will go to existing field drains, whilst dirty water would be directed into the slurry tanks. This is of course a matter for Building Standards.

- 4.7 The proposed slurry holding tanks contravene a SEPA Directive that they should not be within 400m of a residential house to minimise odour complaints and should be at least 10m away from watercourses and field drains to minimise the pollution risk.

The proposal does not contravene any SEPA Directive. The 400m stipulation is a trigger which requires submission of a planning application which would otherwise not be required. SEPA have confirmed that the applicant will be required under such legislation to provide a catch-all drain in order to minimise pollution risk to watercourses and field drains.

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 Policies ENV 13, ENV 14 and ENV 19 are, in part, applicable to the application.

As noted in response to para. 4.2 above the proposal is consistent with Policies ENV 14 and 19. However, with regard to Policy ENV 13, it is considered that the proposal, although itself located in the rural area, is immediately adjacent to the urban boundary and a residential development. Consequently all urban and rural characteristics of the area must be taken into consideration in determination of the application. Having taken account of all these aspects it is considered that the proposal is contrary to Policy ENV 13.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principle material considerations in the assessment of this application are the Consultations and letters of representation.

Consultations

6.2 The consultation responses received are as detailed above and are generally supportive of the application.

Representations

6.3 The objections focus on the scale and location of the building and the impacts that arise from same. These aspects have received consideration in Section 4 of the report.

The circumstances of this application are that it involves the relationship between new housing and an existing operating farm.

Whilst there is as a consequence a degree of weighting to be applied to the impact of the pre-existing farm on the more recent dwellings, it is nevertheless considered that the level of detrimental impact arising in such close proximity to the residential properties to the northeast is not acceptable.

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 and Country Planning (Scotland) Act 1997.

8.2 There are material considerations relevant to the determination of this application. Principally these comprise of the impact of the cubicle shed on adjacent residential properties. The considerations add weight to the development plan and to refusal of the proposed development. In the context of the appeal it is considered that the Council's position should be one of recommending that the application to be refused and in that regard, this report can be submitted to the Scottish Ministers for consideration in their determination of the appeal.

9. RECOMMENDATION

9.1 It is recommended that the Committee agree that this proposal is unacceptable for the reasons indicated on the attached sheet and that this view be submitted to the Scottish Ministers for their consideration in the determination of the current appeal relative to this application.

CONTRARY DECISION NOTE

Should the Committee agree that the application should 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 and such a favourable recommendation would be made known to the Scottish Ministers.

Alan Neish

Head of Planning, Development and Building Standards

11 March 2005 (YN/SA/IMB)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms and Plans.
2. Statutory Certificates.
3. Consultations.
4. Representations.
5. Adopted East Ayrshire Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. PAN 39: Farm & Forestry Buildings.
8. Circular 5/1992: The Town & Country Planning (General Permitted Development) (Scotland) Order 1992.

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on 01563 576771.

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1045/FL

Site of Proposal:	Towerhill Farm Crosshouse Road KILMAURS
Nature of Proposal:	Proposed erection of cubicle shed
Name & Address of Applicant:	Mr T McFadzean Towerhill Farm Crosshouse Road KILMAURS
Name & Address of Agent:	SAC Building Design Services Building Design Services Auchincruive AYR KA6 5HW

DPOs Reference: YN/SA

The above FULL application should be refused on the following grounds

- 1) The proposed development would be contrary to Policy ENV 13 of the Adopted East Ayrshire Local Plan as it does not reflect or compliment the characteristics of the particular area, taking into account the neighbouring development, in which it is proposed to be located.
- 2) The proposed building and use thereof, by virtue of its siting directly adjacent to residential development, its scale and form would have a detrimental effect on the amenity of neighbouring residential properties.

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