

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 MARCH 2007

**06/1037/FL: SITING OF CARAVAN, ERECTION OF AGRICULTURAL
BARN AND ROAD IMPROVEMENT WORKS
AT LAND TO THE EAST OF A719 HARESHAWMUIR ROAD WATERSIDE
BY MR & MRS MILLER**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 This planning application proposes to provide an agricultural barn and a temporary residential caravan for an agricultural worker on the above mentioned land. The proposed barn has a floor area of 245sqm (19 metres by 12.9 metres) approximately with a ridge height of 5 metres.

1.2 The applicant has submitted a labour requirement report prepared by Scottish Agricultural College. The report indicates that the agricultural unit extends to 9.1 hectares and that the applicant proposes to carry out various agricultural processes on the land. These include; red deer production approximately twenty at a time, pedigree sheep production approximately ten at a time and intensive calf rearing enterprise approximately 240 at one time. The report indicates that these proposed works, in addition to the 6.5 hectares of grazing land and the 1.8 hectares of silage will produce 3260 labour hours, therefore equivalent to 1.65 labour units. The great majority of the labour requirement arises from the rearing of calves and red deer. The main use of the proposed barn is for these enterprises, although there would be some feed and farm machinery storage

1.3 The proposed development includes the provision of passing places on the Hareshawmuir road and the provision of traffic calming at the junction with the A719. The exact details for the traffic calming at the junction with the A719 would require to be covered by a planning condition.

2. RECOMMENDATION

2.1 It is recommended that the application for planning permission be approved subject to the conditions on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated in Section 5 of the report the application is considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application. However none are of significant enough weight as would merit the refusal of the application.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused 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 not be a 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 full planning application which is to be considered by the Local Planning Committee under the scheme of delegation as it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is 9.1 hectares of farm land located on the northern side of the Hareshawmuir Road to the east of the A719. The land is classified as 4.1 under the Macaulay Land Use Research Institute rating system. There are no buildings on the site at present.

2.2 **Proposed Development:** This planning application proposes to provide an agricultural barn and a temporary residential caravan for an agricultural worker on the above mentioned land. The proposed barn has a floor area of 245sqm (19 metres by 12.9 metres) approximately with a ridge height of 5 metres.

2.3 The applicant has submitted a labour requirement report prepared by Scottish Agricultural College. The report indicates that the agricultural unit extends to 9.1 hectares and that the applicant proposes to carry out various agricultural processes on the land. These include; red deer production approximately twenty at a time, pedigree sheep production approximately ten at a time and intensive calf rearing enterprise approximately 240 at one time. The report indicates that these proposed works, in addition to the 6.5 hectares of grazing land and the 1.8 hectares of silage will produce 3260 labour hours, therefore equivalent to 1.65 labour units. The great majority of the labour requirement arises from the rearing of calves and red deer. The main use of the proposed barn is for these enterprises, although there would be some feed and farm machinery storage

2.4 The proposed development includes the provision of passing places on the Hareshawmuir road and the provision of traffic calming at the junction with the A719. The exact details for the traffic calming at the junction with the A719 would require to be covered by a planning condition.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Moscow and Waterside Community Council have objected to the proposal on the following grounds:

The grass verges on the Hareshawmuir road were not fully adopted as is usual and residents have grave concerns re the private water supply pipes which run down the verges. There are also buried telephone lines running along the verges.

The Roads Division considers that the verges on either side of the Hareshawmuir carriageway are part of the public road in terms of the Roads (Scotland) Act 1984. The Council would not adopt a rural road without inclusion of the adjacent verges in order to have control over such issues as growth of vegetation, drainage, public utilities, structure of the road edge, possible obstructions and maintenance of sight lines.

In relation to services in the road verge, any works proposed would ensure that the services are properly protected or diverted. There is also no issue with a private water main being located within the boundaries of a public road.

3.2 The land owners on whose property the passing places are proposed have intimated that they will not be making their land available for such an exercise.

The last development on this road resulted in the resident being told by the power supply company that the power cable could not take any further increase in usage volume.

The provision of electricity to the site is the responsibility of the applicant and not a material planning consideration.

3.3 The 20 acres available is inadequate to cope with the amount of waste generated by the number of animals indicated.

It is proposed to attach conditions to any grant of planning permission addressing the disposal of waste from the proposed farm.

3.4 The proposed business is intimated as being permanent yet only temporary accommodation is included in the application. This suggests lack of attention to detail and throws suspicion on the whole business plan. It appears to be a ruse for a house to be built in the near future.

The policies of the East Ayrshire Local Plan indicate that the Council would not be supportive of a new permanent residential dwelling on the site without first the establishment of appropriate justification, therefore the application reflects the requirements of the local plan.

3.5 The Business Plan in our opinion is incomplete and as such does not justify the proposed development.

The business plan was provided by the applicant as additional information to supplement the planning application. It should be noted that no business plan is required to support the formation of a new business in this location. The labour justification however is required to support the proposed temporary residential accommodation on the site.

3.6 Hareshawmuir Road is unsuitable for further development and cannot take any more traffic.

East Ayrshire Council's Roads Division have indicated no objection to the proposal provided appropriate conditions are attached to any grant of planning permission relating to road improvements.

3.7 Scottish Environment Protection Agency standard consultation response for the temporary residential accommodation indicates that they would have no objection to the proposal providing the scheme is served by a septic tank and soakaway system to BS 6297:1983. In relation to the agricultural building, as this building is to be used for the housing of livestock, the applicant must ensure that all waste, manure and slurry is contained and disposed of in such a manner that water pollution will not occur in accordance with the Silage, Slurry and Agricultural Fuel Oil (Scotland) Regulations 2003 and also as detailed in the "Code of Good Practice – Prevention of Environmental Pollution from Agricultural Activity" published by the then Scottish Office in 1997.

If manure is to be stored in field heaps, these should be located at least 10m from any surface water drains or watercourse and slurry must not be allowed to enter field drains or watercourses.

All roof drainage from the livestock building must be entirely separated from any internal drains and the uncontaminated drainage may be disposed of via the existing field drainage system.

Conditions can be attached to any grant of planning consent addressing these matters.

3.8 East Ayrshire Council Road's and Transportation Division have no objections subject to conditions relating to access sightlines, provision of a service layby, provision of passing places and the provision of traffic calming at the junction of Hareshawmuir Road and A719.

Conditions relating to these matters can be attached to any grant of planning permission.

3.9 Scottish Natural Heritage have no objection to the principle of the proposal. With regards to badgers if it is likely that badgers do cross the field we would advise that a survey should be carried out and 'badger gates' installed where the badger routes are identified.

With regard to the Whooper Swans it is possible the swans could be using this area as a migratory route. If the fence is to be located within approx. 300m of a known feeding or roosting area then the fence should be marked.

Conditions can be attached to any grant of planning consent requiring that appropriate surveys and assessments are carried out in relation to use of the field by badgers and/or Hooper Swans.

4. REPRESENTATIONS

4.1 The application was advertised in the Kilmarnock Standard. 11 objectors, one from the Community Council detailed above, have made representation in relation to this proposal. They raise the following issues:

4.2 Hareshawmuir Road is very busy and new development would make the road even busier. The junction of the Hareshawmuir Road with the A719 is very difficult at busy times. The additional traffic would change a rural road, suitable for riding horses and ponies along, into a busy road.

East Ayrshire Council's Roads Division have indicated no objection to the proposal provided appropriate conditions are attached to any grant of planning permission relating to road improvements.

4.3 This application is a precursor to building a house on the site.

The policies of the East Ayrshire Local Plan do allow in principle for the erection of houses in the countryside provided they have a suitable and policy complaint justification. However, any such proposal would have to be judged on its merits if or when submitted.

4.4 This development is contrary to the designated local rural protection area and is identified as "a safeguarded area"

The application site falls within the Rural Protection Area as identified in the East Ayrshire local Plan. However, an agricultural use of the application site is acceptable usage in the Rural Protection Area.

4.5 The business plan is flawed and the 20 acres of poor quality land would not support the livestock or market garden proposed.

The Agricultural Viability Report has been submitted by Scottish Agricultural College Farm Business Services who routinely offer studies in support of such enterprises. SAC attest to the enterprise generating a certain level of labour requirement and income. There is no market garden in this current application.

4.6 The livestock proposed – deer and sheep-do not require the size of barn proposed and referral to current animal husbandary would question whether this is needed at all.

The applicant does not require to justify the size of the barn, although it is appropriate to consider whether it is acceptable in visual terms.

4.7 There is no consideration given to slurry/sewage run off from intensive husbandary and the current sitting of the barn is likely to contaminate the ground water table of our bore hole in addition to contamination of the ditch by the road which runs across the land and adjacent to the house at West Collarie. No indication is given of the sitting of the slurry store or midden.

Planning conditions can be attached to any grant of planning permission addressing the slurry and sewage issues arising from the site in accordance with SEPA Guidelines.

4.8 No amenities are on this site. No water is readily available except by installing a bore hole. The current mains supply has reached the maximum number that can be provided on the current cable with the recent connection of Muirburn. Electricity supply to either a barn, caravan or house would require upgrading of the entire line from the A719 or erection of further unsightly pylons from another more distant supply line. No provision for this has been outlined in the application.

The provision of water and electricity to the site is the responsibility of the applicant and not a significant planning consideration.

4.9 Current badger populations and other wildlife currently with access to this land will be excluded by the high fence which will be required for deer. This fence will also run visibly adjacent to the road.

Scottish Natural Heritage have indicated that there may be badgers and/or swans utilising the site and indicate that

appropriate conditions should be attached to any grant of planning consent to ensure appropriate surveys/assessments are carried out to assess the situation and the provision of any necessary mitigation measures.

4.10 The water supply is a cast iron pipe in the road verge along the Hareshawmuir Road; the proposed parking spaces will damage this. As the applicant does not own the land on which these passing places /sightlines are to be built – will the applicant be asked to enter into a S75 with adjacent landowners as a pre-requisite of consent?

The Roads Division considers that the verges on either side of the Hareshawmuir carriageway are part of the public road in terms of the Roads (Scotland) Act 1984. The Council would not adopt a rural road without inclusion of the adjacent verges in order to have control over such issues as growth of vegetation, drainage, public utilities, structure of the road edge, possible obstructions and maintenance of sight lines.

In relation to services in the road verge any works proposed would ensure that the services are properly protected or diverted. There is also no issue with a private water main being located within the boundaries of a public road.

4.11 Vandalism has not to date been a common occurrence in this area.

The issue of vandalism is not a significant consideration in the determination of this application.

4.12 I have been a farmer all my life and find it difficult to comprehend that building a shed the proposed size on a piece of land of that acreage is a viable proposition agriculturally.

The application does not require to prove the agricultural viability of the scheme only that the scheme would produce enough labour hours to justify the provision of a temporary residential unit on the site.

4.13 Should planning permission be granted, a precedent is being set and will open the floodgates for all the other farmers to sell off plots of land for agricultural use? With houses being built to look after stock.

Every planning application is assessed on its own merits against the policies of the East Ayrshire Local Plan and material considerations.

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 (2003).

Ayrshire Joint Structure Plan Policy

5.2 Policy G5 of the Ayrshire Joint Structure Plan 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;

The proposal has justified a specific locational need.

- B) can be justified in term of social and economic benefit to the community;

The proposal is an agricultural enterprise and therefore the provision of temporary workers accommodation is acceptable.

- C) contributes to rural land diversification: or

Not relevant to this proposal.

- D) provides for the operational needs of agriculture and forestry.

The proposal is an agricultural enterprise and therefore the provision of temporary workers accommodation is acceptable.

East Ayrshire Local Plan (EALP)

5.3 Policy IND10 of the East Ayrshire Local Plan indicates that industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to:-

- (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.

As the proposed development relates to an agricultural enterprise the proposal accords with criteria (ii) of Policy IND10 above.

5.4 Policy RES16 of the East Ayrshire Local Plan indicates that the Council will not be supportive of any proposals for additional houses in the countryside for agricultural workers where it can be established that:-

(i) an existing farmhouse or other agricultural workers accommodation previously serving the agricultural unit concerned has been sold off separately from the unit to persons not employed on the farm, within the preceding five year period; or

(ii) an agricultural occupancy condition previously attached to a residential property serving the agricultural unit concerned has been removed by the Council in the preceding five year period.

The Council will not generally be supportive of proposals for new agricultural workers houses where the farm unit to which the proposal relates has been established for a period of less than two years. The sitting of a residential caravan to accommodate an agricultural worker for a limited period may be considered acceptable with regard to newly established farm units where this can be fully justified to meet the operational requirements of the unit.

The proposal relates to the formation of a new farm enterprise at the site. In these circumstances it is considered that any onsite residential accommodation required for animal husbandry or security should be of a temporary nature until such time as it can be show that the business is properly established. A period of two years is considered to be the accepted norm in these circumstances, before any possible future planning application for a new house can thereafter be considered on its merits.

5.5 Policy RES12 states that the use of caravans and non-permanent dwellings on sites other than those specifically authorised for such purposes will not be permitted. However, the policy also states that temporary consent may be granted in special circumstances where on-site temporary accommodation is required pending the construction of a permanent dwelling or where a temporary, proven, site specific locational need can be demonstrated to the satisfaction of the Council.

The applicant has demonstrated that an on-site presence is required for the husbandry of the livestock on the proposed farm steading therefore temporary accommodation is acceptable in this form.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses received which are addressed in Section 3 of this report, letters of representation and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses detailed in the report, with the exception of the Community Council, do not indicate that the application should be refused.

Representations

6.3 The concerns of the objectors have been addressed in the committee report. It is not considered that they raise any issues which would merit refusal of the application.

Planning History

6.4 Planning application 06/0282/FL for the siting of a caravan and erection of an agricultural barn was withdrawn on 03 November 2006.

Amenity of the area

6.5 The aspect of the amenity of the area has been assessed and it is considered that the proposal would result in a justified farm enterprise and temporary accommodation in the countryside, that would have minimal impact on the amenity of the area.

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 is indicated in Section 5 of the report the application is considered to be in accordance with the development plan. Therefore given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application. However none are of significant enough weight as would merit the refusal of the application.

9. RECOMMENDATION

9.1 It is recommended that the application for planning permission 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 and Building Standards it will not require to be referred to the Development Services Committee, as there would not be a significant breach of Council Policy.

07 March 2007
(CSI/RH)
FV/DVM

Alan Neish
Head of Planning, Development and Building Standards

LIST OF BACKGROUND PAPERS

1. Application Form, Plans and supporting information.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Adopted East Ayrshire Local Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999).
6. Letters of representation
7. Planning Application 06/0282/FL

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: 06/1037/FL

Site of Proposal: LAND TO EAST OF A719 HARESHAWMUIR COTTAGE,
WATERSIDE, KILMARNOCK, KA3 6JJ

Nature of Proposal: SITING OF CARAVAN ERECTION OF AGRICULTURAL
BARN AND ROAD IMPROVEMENT WORKS.

Name & Address of Applicant: MR AND MRS S MILLER
20 HOLM CRESCENT
FENWICK
KILMARNOCK
KA3 6DG

Name & Address of Agent: MUNRO ARCHITECTS
23 PORTLAND ROAD
KILMARNOCK
KA1 2BT

DPOs Reference: CSI/RH

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

1. The caravan hereby approved is authorised for a period of two years commencing from its placing on site and shall be removed upon conclusion of the two year period unless a further separate planning permission is granted. Furthermore the caravan shall only be used by persons and for purposes directly linked to the operation of the agricultural enterprise hereby approved.

REASON The caravan is a temporary structure, the requirement for which is the associated agricultural enterprise.

2. Prior to commencement of development, written details of the necessary road improvements shall be submitted to and approved by the Planning Authority. Said improvements shall include details of the passing places on the Hareshawmuir Road, the road junction improvement at the A719 and Hareshawmuir Road, and the adjacent traffic calming requirements on the A719. The improvements and passing places shall be undertaken in such a manner as not to damage pre-existing utilities located in their vicinity.

REASON In the interests of road safety.

3. Prior to the erection of the shed and/or the caravan, the required passing places on Hareshawmuir Road, the road junction improvements at the Hareshawmuir Road junction with the A719 and the associated traffic calming on the A719 as approved under condition 2 above shall be completed to the satisfaction of the Planning Authority.

REASON In the interests of road safety.

4. All roof drainage from the livestock building shall be kept entirely separate from any internal drainage. The uncontaminated drainage should be dealt with via an appropriate field drain system.

REASON In the interests of environmental amenity.

5. All waste, manure and slurry must be contained and disposed of in accordance with the silage, slurry and agricultural fuel oil (Scotland) Regulations 2003, with details being submitted to the Planning Authority of how this is to be achieved, prior to the commencement of development.

REASON In the interest of environmental amenity.

6. Prior to the commencement of development, details of the proposed caravan including its precise location on site and all associated drainage requirements, shall be submitted to and approved by the Planning Authority, and thereafter implemented as approved.

REASON In the interests of visual amenity and to allow for suitable site drainage.

7. Prior to the commencement of the development on site a badger survey/report shall be carried out and be submitted to the Planning Authority for approval. Said report shall include such mitigation measures as considered appropriate. Thereafter said mitigation measures shall be implemented as approved prior to the commencement of development.

REASON In order to ensure that the proposed development does not have a detrimental impact on any potential badger population in the area.

8. Prior to the commencement of the development on site a swan assessment report shall be carried out and shall be submitted to and approved by the Planning Authority. Said report shall include mitigation measures as considered appropriate. Thereafter said mitigation measures shall be implemented as approved.

REASON In order to ensure that the proposed development does not have a detrimental impact on any potential swan activity in the area.

**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.**