

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 25 NOVEMBER 2005

**04/1266/FL: PROPOSED GARDEN CENTRE WITH ASSOCIATED PARKING
AND DWELLINGHOUSE
AT VACANT GROUND LOCHLIBO ROAD LUGTON
BY MR J FULTON**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal consists of a single storey garden centre building 12 metres by 24 metres with 87 car parking spaces and 1184 sq metres of external display area. A non-public area which contains two 75 sq metres glasshouses, one 50 sq metres shed, a growing area approximately 2340 sq metres and a two storey 4-bedroom manager's house with detached double garage are also proposed. The 288 sq metres garden centre building consists of an internal display area and restaurant with nine tables, associated toilets and offices.

1.2 The proposal has four access points serving the dwellinghouse, the service yard and two for the car park onto the A736 public road.

1.3 The applicant indicates that the proposal would aim to employ one general manager, one assistant manager, the full time equivalent of three kitchen staff, six tearoom serving staff, six tills/stocking staff, one home produce manager, one horticultural chargehand and three horticultural assistants.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet

3. CONCLUSIONS

3.1 As indicated in the report the application is considered not to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be refused unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the 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 that would 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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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 recommended for refusal and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site, former railway sidings, is located on the south-eastern side of the A736 Lugton to Uplawmoor Road directly opposite Caldwell Golf Course. The 3.2 acre site is linear and is bounded by the Kilmarnock to Glasgow Railway to the south-east and by the A736 to the north-west. The application site measures 420 metres long (south-west to north-east) and measures approximately 30 metres in width (north-west to south-east).

It should be noted that the former railway property immediately to the north east of the site is located within the boundary of East Renfrewshire Council.

2.2 **Proposed Development:** The proposal consists of a single storey garden centre building 12 metres by 24 metres with 87 car parking spaces and 1184 sq metres of external display area. A non-public area which contains two 75 sq metres glasshouses, one 50 sq metres shed, a growing area approximately 2340 sq metres and a two storey 4-bedroom manager's house with detached double garage are also proposed. The 288 sq metres garden centre building consists of an internal display area and restaurant with nine tables, associated toilets and offices.

2.3 The proposal has four access points serving the dwellinghouse, the service yard and two for the car park onto the A736 public road.

2.4 The applicant indicates that the proposal would aim to employ one general manager, one assistant manager, the full time equivalent of three kitchen staff, six tearoom serving staff, six tills/stocking staff, one home produce manager, one horticultural chargehand and three horticultural assistants.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division object to the proposal on the basis that the residential access fails to accord with the standards for junction spacing and sightlines. The proposed layby is too narrow for service vehicles, the double garage is too close to the access to allow vehicles using the garage to turn within the curtilage of the house. The service access is inadequate and would not permit turning manoeuvres within the site.

3.2 The applicant has failed to provide drainage details for the surface water runoff from the A736 or a Sustainable Urban Drainage system for the proposal.

The Road's Divisions comments indicate that the proposal fails to provide safe means of access and egress to the proposed garden centre and dwellinghouse nor does the proposal address the drainage needs for surface water run off from the A736 or the drainage arrangements on the site, therefore the proposal should be refused.

3.3 East Ayrshire Council's Outdoor Services has made no comment on the proposal.

Noted.

3.4 East Ayrshire Council's Economic Development and Property Division have questioned the ongoing commercial viability of the proposed business.

Noted.

3.5 Scottish Water have raised concerns that there are no known sewers to which a connection may be made from the proposed development. Therefore drainage will require to be treated by a septic tank or other suitable treatment system to the satisfaction of SEPA.

Noted.

3.6 Railtrack have no objection in principle to the proposal however they would require the developer to adhere to the requirements for construction work on or near railway operational land. A note can be attached to any grant of planning consent in relation to this matter.

Noted.

3.7 Scottish Environment Protection Agency (SEPA) object to the proposal due to their concerns regarding the proposed foul drainage of the site. They have concern that the applicant aims to treat the foul drainage from the site by means of a septic tank. The ground conditions in the area are unlikely to prove suitable for a soakaway arrangement and SEPA considers that the adjacent watercourses are unable to accommodate the discharge from a septic tank.

Due to previous uses of the site it may be contaminated and this matter should be investigated by the applicant.

With regard to the Scottish Framework directive SEPA has concerns that the formations of ponds and the abstraction of water for the filling of fish ponds and for the watering in general of the garden centre may raise serious issues in relation to this legislation.

With regard to the surface water the proposal should incorporate a Sustainable Urban Drainage System. Said drainage system may have an impact on the layout of the proposal.

3.8 Dunlop and Lugton Community Council have objected to the proposal on the following issues:

- (i) Road safety – access to and from this site would be extremely difficult due to the volume and speed of traffic on this straight part of the A736;

The Council's Road Division indicate that the proposal would not provide a safe means of access or egress from the site and should be refused on road safety grounds.

- (ii) The width of this site at various points make it very difficult to visualise a house and garden centre and parking being fitted into this site as the railway bank is at the back;

Noted.

- (iii) There is already a nursery/garden centre about 500 metres from the site.

The issue of competition is not a significant material planning consideration.

3.9 East Ayrshire Council's Environmental Health Division have indicated that they are not aware of any contamination issues on the site however would suggest that it would be useful to attach a condition to any grant of planning

consent requiring the applicant to monitor the building works for any contamination issues.

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

3.10 East Renfrewshire Council have indicated that the proposed site is located in an area designated within the Ayrshire Joint Structure Plan 1999 as a Rural Protection Area and as such Policies G1 and G5 of this Plan are particularly relevant. These policies are complemented by Strategic Development Policy SD3 Rural Protection Areas, contained within the East Ayrshire Local Plan.

In the East Renfrewshire Local Plan, the land on the East Renfrewshire side of the boundary is zoned as green belt and is covered by policies giving a strong presumption against development. As such East Renfrewshire Council would be concerned that approval of this proposal would jeopardise the integrity of East Renfrewshire's Green Belt policy.

Noted.

4. REPRESENTATIONS

Two letters of objection (including one from the Community Council) have been received in relation to the proposal. The grounds of objection are summarised as follows:-

4.1 On this stretch of road vehicles tend to utilise it to overtake often at very great speeds. In our opinion any new access points onto the road will create a definite hazard.

East Ayrshire Council's Roads and Transportation Division object to the proposal due to the unsafe nature of the access points onto the public highway.

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

5.2 Policy G1 of the Ayrshire Joint Structure Plan indicates that the three Ayrshire Councils shall in providing for new development give priority to the use of land within the existing settlements. Any Proposed development outwith settlement boundaries shall not conform to the Structure Plan except:-

- (a) where it specifically accords with other policies in the Structure Plan;
- (b) in locations identified in local plans for that specific development purpose; and
- (c) where the proposed development meets appropriate development criteria as defined by the Structure Plan and Local Plan

The proposal fails to accord with the relevant policies of the Structure Plan.

Policy G5 of the Structure Plan indicates that Development Proposals in the Rural Protection Area shall normally be limited to the use of land within settlements. Outside settlements, development proposals shall conform to the Structure Plan only where the development :

- A has a demonstrated site specific locational need;

The applicant has not demonstrated any site-specific locational need for the proposal.

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

The applicant has indicated that the proposed market for the scheme is East Renfrewshire where 83% of the houses are owner occupied and 78% of homes are either detached or semi-detached.

- C contributes to rural land diversification; or

It is considered that as the proposal is an unjustified retail and residential development in the Rural Protection Area and that the proposal fails to contribute to rural land diversification.

- D provides for the operational needs of agriculture and forestry

The proposal does not provide for the operational needs of agriculture or forestry.

East Ayrshire Local Plan

5.3 With regard to the Garden Centre, Policy RTC 7 supports retail development proposals in out of town centre locations in six stated circumstances. One of these circumstances is pertinent to the application, this being where:

- (iv) the proposal is for a farm shop, falling within Class 1 of the Use Classes Order, related specifically to local agricultural or horticultural activities and where the goods sold are limited exclusively to those produced or grown on site;

With regard to the retail element of the proposal, although not strictly a farm shop, a garden centre can primarily be dealt with in the spirit of Policy RTC 7(iv) insofar as it may relate to horticulture activities where the goods sold are grown on site. However this proposal has a limited growing area in relation to the sales area of the shop, café and external display area. In this regard it is also key to note that the business plan indicates that the proposal will employ 1 general manager (who would live in the proposed house), 1 assistant manager, 15 people in the kitchen serving or tills staff and 5 people on the horticultural process. Therefore it is considered that the business would not be one which could be considered to be similar to the farm shop concept. Given these figures the retail element would not be deemed ancillary to the horticultural activities on site.

5.4 Policy IND10 of the East Ayrshire Local Plan states that industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to one of five stated types of development. Only one of these stated types of development is pertinent to the application, this being:-

- (ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;

The proposed garden centre cannot be considered to comply with this policy criterion as it involves a significant element of retail and commercial activity.

The policy also requires all proposals for industrial and business developments in the countryside to be justified against a set of six criteria, as follows:-

- (i) their impact on the surrounding environment;

It is considered that, due to the inadequate access arrangements onto the A736, the inadequate drainage provision and the introduction of commercial activities into a rural area, the proposed garden centre would have an adverse impact on the surrounding environment.

- (ii) their impact on adjacent uses;

The application site is located adjacent to an existing golf course and due to the high level of retail and commercial activity proposed and the inadequate access arrangements onto the A736, the scheme would have a detrimental impact on the adjacent recreational use.

(iii) transportation implications;

The Council's Road Division have objected to the proposal.

(iv) infrastructure implications;

Scottish Water and SEPA have objected to the proposal.

(v) loss of prime agricultural land; and

Not applicable as this is a brown field, former railway associated site.

(vi) impact on natural and built heritage resources.

Not applicable.

5.5 Policy SD3 of the East Ayrshire Local Plan states that, within the Rural Protection Area, development proposals relating to land located outwith settlement boundaries will be acceptable to the Council only in five stated circumstances. Three of these stated circumstances may be pertinent to the application, these being where the development:-

(i) can be fully justified in terms of site specific locational need; or

The applicant has not demonstrated any site specific locational need for the proposal

(ii) can be fully justified in terms of social and economic benefit to the community; or

The applicant has indicated that the proposed market for the scheme is East Renfrewshire where 83% of the houses are owner-occupied and 78% of homes are either detached or semi-detached.

(iii) contributes to rural land diversification.

The proposal fails to contribute to rural land diversification.

5.6 With regard to the proposed house Policy RES 13 of the East Ayrshire Local Plan 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, this being:

- (ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on site is essential to the economic operation of the activity concerned.

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

It is considered that the proposed house cannot be justified in terms of criterion (ii) above as the proposed business to which it is associated has not been justified. Therefore without proper justification of the garden centre building or site specific location need, the house is also considered to be contrary to this particular policy.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representations received and the impact on the amenity of the area.

Consultation Responses

6.2 The consultation responses are not in general supportive of the application.

Representations

6.3 The representations received have been summarised in Section 4 of the Report and it is considered that they raise issues which merit the refusal of the application.

Impact on the Amenity of the Area

6.4 Notwithstanding the brownfield nature of the site it is considered that the proposal cannot be accommodated as detailed without having a detrimental impact on the surrounding area due to the visual impact of the proposal, the difficulties in the disposal of foul and surface water, the road safety issues and the introduction of the commercial activities into the rural area. The proposal would result in an intensification of inappropriate development in the Rural Protection Area leading to a clutter of suburban buildings, structures and hard landscaping which would be detrimental to the visual amenity of the surrounding environment.

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 the report the application is considered not to be in accordance with the terms of the Development Plan. Therefore, consistent with the Town and Country Planning (Scotland) Act 1997, it should be refused unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application however it is not considered that these are of sufficient weight to merit the approval of the application.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons indicated 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 as that would be a significant departure from Council policy.

Alan Neish
Head of Planning, Development and Building Standards

15 November 2005
(CSI/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and 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 Craig Iles, Senior Planning Officer, on 01563 576772.

Implementation Officer: Dave Morris

041266FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1266/FL

Site of Proposal:	Vacant Ground Lochlibo Road LUGTON G78 4BU
Nature of Proposal:	Proposed Garden Centre with Associated Parking and Dwellinghouse
Name & Address of Applicant:	Mr J Fulton 16 Easterbrae MOTHERWELL ML1 2ET
Name & Address of Agent:	Planterra Ltd 16 St Ninians LANARK ML11 7HX

DPOs Reference: CSI/MMM

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

1. The proposed development fails to accord with Policy G1 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.
2. The proposed development fails to accord with Policy G5 of the Ayrshire Joint Structure Plan as the scheme fails to meet the criteria set out for development in the Rural Protection Area and is therefore deemed not to be appropriate.
3. The proposed development fails to accord with Policy IND10 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for industrial and business development outwith settlement boundaries and is therefore deemed not to be appropriate.

4. The proposed development fails to accord with Policy RTC7 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for retail development proposals in out of town centre locations and is therefore deemed not to be appropriate.

5. The proposed development fails to accord with Policy SD3 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for development proposals located outwith settlement boundaries in the Rural Protection Area and is therefore deemed not to be appropriate.

6. The proposed development fails to accord with Policy RES13 of the East Ayrshire Local Plan as the scheme fails to meet the criteria set out for residential development in the Rural Protection Area and is therefore deemed not to be appropriate.

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