

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 25 NOVEMBER 2005

**05/0983/FL: PROPOSED NEW HOUSE, SITING OF TEMPORARY
ACCOMMODATION, NEW DOG KENNELS, HEN HOUSE, WORMERY AND
TIMBER AGRICULTURAL SHED AND NEW ACCESS
ON LAND AT NETHERGATE FARM, DUNLOP
BY MR AND MRS MCKENZIE**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the erection of a 3-bedroom detached dwellinghouse of timber construction, with smooth grey concrete roof tiles and mid-brown stained double glazed windows, and for a timber agricultural shed, timber hen hut, kennels, a wormery constructed with white plastic cladding, and the temporary siting of a static caravan. It is also proposed to create a new access to the site from the public road. The development is proposed in the western section of the land under the ownership of the applicant, just off the C125 road to Dunlop.

1.2 The proposed timber shed, hen hut and wormery relate to the proposed farming business of the applicants, which is to carry cattle, pigs and sheep. The applicants have submitted a SAC justification to demonstrate that a labour unit is justified on site. The suckler cows and the vegetables and plants in the polytunnel are not yet operational; the applicant is awaiting the determination of the planning application before establishing these parts of the business, due to previous concerns about the business operating without prior consent. The applicants have advised they will be able to start rearing cows on site if and when consent is granted. They have been advised that the polytunnels are likely to require prior notification, not full planning consent, and are awaiting the determination of this application prior to submitting the prior notification. Excluding the man hours associated with the cows and the polytunnels, 0.97 labour units are justified on site at present.

1.3 The justification advises that the business proposed for Nethergate Farm originally operated from Avonview Cottage in Newmilns, where a smallholding was established in February 2001. This enterprise was expanded over the following few years, and the business broke even in August 2004. The justification advises that Nethergate Farm has an agricultural holding number, which is registered with the Scottish Executive Rural Affairs Department (SEERAD), and the unit is also registered with the Small Holders Association and

the Wholesale Food Association. In support of the application, the agents have provided a letter from the Farming and Wildlife Advisory Group Limited, advising that the business closely reflects Scottish Executive agricultural policy, and that it is considered particularly suitable for entrance into the Rural Stewardship Scheme, which is run by SEERAD to provide financial support to environmentally sensitive farmers.

1.4 The applicant has advised that in their previous location, they owned 8 acres and leased a further 9 acres. The move to Nethergate is to allow expansion of the business. There was an old cottage on the previous unit; this was sold together with the land when the applicants moved.

1.5 The proposed house is to enable the applicant to work on site full time, and the caravan is proposed as temporary accommodation until the house has been built, and the proposed kennels are for private use by the applicant.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, this application is considered consistent with the Development Plan. Therefore 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 considered to be of such significant weight against the proposal as would merit 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 the application will not require to be referred to the Development Services Committee as that would not represent 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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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 the subject of objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located to the south west of Dunlop. The applicant's land is to the south-east of the public road, and extends to approximately 47 acres. There is currently fencing, hedges and some trees along the boundary of the site with the road. The section of land to which the proposed development relates is relatively flat, and then rises up to the fields further south with the main fields extending to the east and north-east of the proposed house. The timber shed, static caravan, kennels and hen house are already on site.

2.2 **Proposed Development:** Full planning permission is sought for the erection of a 3-bedroom detached dwellinghouse of timber construction, with smooth grey concrete roof tiles and mid-brown stained double glazed windows, and for a timber agricultural shed, timber hen hut, kennels, a wormery constructed with white plastic cladding, and the temporary siting of a static caravan. It is also proposed to create a new access to the site from the public road. The development is proposed in the western section of the land under the ownership of the applicant, just off the C125 road to Dunlop.

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the planning application before establishing these parts of the business, due to previous concerns about the business operating without prior consent. The applicants have advised they will be able to start rearing cows on site if and when consent is granted. They have been advised that the polytunnels are likely to require prior notification, not full planning consent, and are awaiting the determination of this application prior to submitting the prior notification. Excluding the man hours associated with the cows and the polytunnels, 0.97 labour units are justified on site at present.

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2.5 The applicant has advised that in their previous location, they owned 8 acres and leased a further 9 acres. The move to Nethergate is to allow expansion of the business. There was an old cottage on the previous unit; this was sold together with the land when the applicants moved.

2.6 The proposed house is to enable the applicant to work on site full time, and the caravan is proposed as temporary accommodation until the house has been built, and the proposed kennels are for private use by the applicant.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division do not object to the proposal provided that a lay-by, to adoptable standard, is provided at the junction with the public road for service vehicles, and sightlines of $x = 2.5$ metres and $y = 90$ metres are provided. They further advise that a road opening permit is required prior to the commencement of works to form the layby, and no building work should commence until the lay-by has been constructed.

The provision of a lay-by and the required sightlines may be addressed by way of condition, should consent be granted. An advisory note may be attached to any consent in relation to a road opening permit.

3.2 East Ayrshire Council's Environmental Health Division do not object to this proposal, but advise that waste arising from construction work should be disposed of in a suitable manner and otherwise than by burning, noisy work on the site should be limited, the applicants should satisfy themselves as to the adequacy of water supply for the proposed development, the drainage installation should be completed to the satisfaction of SEPA, and suitable provision for the collection of waste during the operation of the premises should be made.

The disposal of construction waste can be addressed by an advisory note. Conditions may be attached to prevent burning on site and to ensure a wholesome water supply. Noisy work on site may be limited by way of condition, should consent be granted. In relation to drainage, SEPA have been consulted and this is addressed in Section 3.4 below. The provision of the layby, required by the Roads Division, is intended for service vehicles, and thus addresses the issue regarding the collection of waste from the site when operational. The Cleansing Division have confirmed they have no objections to this.

3.3 Scottish Water do not object to the proposal but advise that a separate application must be made to Scottish Water for permission to connect to the public water network at the appropriate time. They advise further that there are no public sewers in the vicinity of the development, and that any septic tank should be sited in such a manner as to allow easy access for emptying by the tanker. They advise that if adequate water pressure cannot be provided, the development may require private pumping arrangements to be installed, and the applicant should write to Scottish Water to discuss whether the existing water supply may need upgrading in view of the proposed development.

In relation to water pressure, the applicant has advised this Division that pumping arrangements will not be required, however, a condition can be imposed to ensure a satisfactory water supply to the site. Advisory notes and conditions can be attached to any consent to address the remaining issues.

3.4 SEPA do not object to this proposal provided the drainage arrangements are to their satisfaction. They state that surface water must be excluded from the foul drainage system, and should be discharged to a separate soak-away or a watercourse via a suitably designed SUDS system. Furthermore, waste materials generated from this development, such as construction wastes, must be removed from the site by licensed waste carriers, to a site that has either an appropriate waste management licence, or is registered with SEPA as exempt from licensing.

Conditions can be attached to ensure the provision of a SUDS system for surface water and a septic tank with reed bed as a suitable drainage system. The removal and disposal of waste may be addressed by attaching an advisory note.

3.5 Stewarton Community Council have not responded in relation to this proposal.

Noted.

3.6 Dunlop and Lugton Community Council were consulted due to the proximity to Dunlop, although the application site falls within the Stewarton Community Council area. Dunlop and Lugton Community Council have not responded in relation to this proposal.

Noted.

4. REPRESENTATIONS

There are six objectors to this proposal. In addition, one letter of support has been received. The objectors' points of concern are listed and addressed below:-

4.1 The application for a house confirms local suspicion that this is yet another building scam of which there have been four in the locality over the past few years. The plans refer to amendments, which demonstrate the intention to build a house has been going on a long time. The manner in which the application has been handled suggests the intention has been to start with an innocent farming 'development' and thereafter to argue that a farm house is necessary.

A SAC justification has been provided to demonstrate that the business activity can justify a labour unit. Further, the applicants have provided a chronology of their business development and letter of support from the Farming and Wildlife Advisory Group Limited (FWAG), with these demonstrating that the business is already established, and this application is a means to continue and expand the business. Any consent will attract an occupancy condition, which would prevent the establishment of a mainstream house.

4.2 This road is frequently used by cyclists, walkers and dog walkers and is a popular walk for many in Dunlop. Now, when turning a minor corner these people are faced with what can only be described as a visual eyesore, where previously the landscape and views were unspoilt.

The applicant is proposing to utilise timber for the house, agricultural shed, kennels and hen house, as a sustainable material and also for a degree of consistency in materials. A condition can be attached to the grant of any planning consent, requiring landscaping to provide a degree of screening and to minimise visual impact. The applicants advise that they intend to provide landscaping to the north of the existing buildings, which will help screen it from the road.

4.3 The development is right on the skyline and visible from the valley below, both by day and night. A previous application, some 1000 metres along the same road, was refused as it would have been too prominent and that previous application was lower and less intrusive than the application now being considered. There are beautiful views from this road, but this high site is seen from all over the valley and a consistent Departmental approach would appear highly desirable. The shed impinges on our sightlines and is also clearly visible from Aiket Road, almost a mile away.

This is a prominent site, however it is considered that the proposed location of the buildings takes cognisance of this, and they have been proposed on the lower section of ground within the application site. It is not clear from the letter of objection which previously refused application is referred to. A search of planning records has revealed that an application for a house on land adjacent to Leahead, Aiket Road, was refused in April 1998. There were several reasons for this refusal, including the lack of a demonstrated site specific locational need, and failure to achieve the required sight lines. Planning applications must be assessed on their individual merits, and it is considered that this current application is consistent with Development Plan policy.

4.4 The design and construction of the proposed log-cabin type of building are inappropriate and out of keeping with the area. In this very rural area, all houses (except two farm workers houses) are traditional stone-built, harled, slated and roofed at a pitch of 45° or higher. The existing flattened roof of the timber shed is unsympathetic within this relatively unspoilt part of Ayrshire and just shows how unsuitable the proposals for a domestic building are, in the suggested use of timber for external walls, in the shape and proportion of window openings and in roofing material.

Recent Scottish Executive Planning Policy and Guidance is more encouraging of innovative styles of housing in the countryside, and differing materials to permit more flexibility in design and more sustainable types of development. Planning Advice Note 72: Housing in the Countryside, specifically encourages timber as a

sustainable and practical alternative to more traditional external materials. In light of this advice, the proposal is acceptable.

4.5 I am concerned that the proposed house is to be a Douglas Fir tongued and grooved log construction. It will be visible from my rear windows and garden, and I am concerned it will not be in keeping with the surroundings and will have a detrimental effect on the area.

Recent Scottish Executive Planning Policy and Guidance is more encouraging of innovative styles of housing in the countryside, and differing materials to permit more flexibility in design and more sustainable types of development. Loss of a view is not a material planning consideration.

4.6 The establishment of additional kennels in this area is unacceptable. The existing Aiket Kennels have an occupancy rate of 3-10%, except at Christmas when it rises higher, so there is no need for further kennel development in this area. We request that, should any permission be given for these structures, a specific exclusion clause is attached to prevent the kennels operating on a commercial basis.

The applicant has advised this Division that the kennels are for their private use only, and do not form part of their business. A condition can be attached to prevent commercial use of the kennels, should consent be granted.

4.7 Economically, a farm of this size is not viable. Despite higher grants from SEERAD, organic farming is not a viable financial option in this area. The area of this development is small (about 50 acres) and at present is plagued by rashes. A nearby farm converted to organic farming four years ago, this farm is now plagued by rashes which cannot be cleared by spraying or fertilising under requirements for organic farmers. Another farm is now up for sale as the farmer can't make a living out of such a small acreage (approx 45 acres), having tried for three years, but he nevertheless managed to farm without the house. The domestic building hasn't been erected and the owner stands to make £80,000 to £90,000 from the successful planning application when it sells. I farm on 100 acres and lose money most years as it is too small a unit and one of my neighbours farms on 200 acres and the income is insufficient for him even to have to pay tax. It would appear a gross misuse of the system if anyone can buy 50 acres, even without a shed, and then apply to build a house in the countryside. This sets yet another precedent and leaves the system wide open to abuse. The owner is in employment elsewhere, so there is no doubt what is proposed is a 'hobby farm', the only benefit of that is being able to build a house in the countryside.

The SAC justification details the hours required for the elements of the business, and demonstrates that a full time worker is justified to run the business now.

However, it also explains that the business will be profitable from year 1, and produce a full-time income for one person by year 3.

4.8 Permission should be refused for a septic tank. The outflow can eventually only go into roadside drainage, or come onto our (or our neighbour's) land, as a soak-away will not work given the ground conditions. It will have to be piped somewhere, officially or unofficially.

It is considered that the site is capable of handling the drainage solutions suggested by SEPA. The precise drainage arrangements must meet with the requirements of SEPA and the final agreed solutions, installation and implementation will be the subject of planning considerations, should consent be granted.

4.9 The land in question is a green field site with no existing buildings, on a quiet, narrow and picturesque country road. It is not an area zoned for residential development. This is wholly inappropriate development of agricultural land.

Local Plan Policy seeks to limit sporadic housing in the countryside but is generally supportive when a site specific locational need can be demonstrated. Such a need has been demonstrated in this instance, through submission of the labour justification. In planning terms, a house associated with this farming business is therefore acceptable in principle.

4.10 It appears that the proposed dwellinghouse contravenes a number of East Ayrshire guidelines. It does not sit naturally with the surroundings and will be unduly visually prominent. No attempt has been made to screen it with either natural landform or existing trees, walls or hedges. The proposed building does not observe building materials of traditional houses in the locality, (being of wooden construction), and does not use traditional wall finishes, suitable painting, or natural slate as a roof finish. It is very close to the road

As noted above, it is recognised this is a relatively prominent location, however it is considered that the proposed location of the buildings is in the least conspicuous part of the applicant's land, and it is intended to attach a condition requiring a landscaping scheme. In relation to the proposed materials, Scottish Executive Policy is becoming more encouraging of innovative designs and materials, particularly where they are sustainable. The proposed materials are generally considered to accord with these principles and the final roofing material will be agreed by condition, if consent is granted, to reflect the rural setting of

the building. In terms of its proximity to the road, this is considered preferable to creating a long access through fields. However historic it is often common to find farm buildings located immediately adjacent to the public road.

4.11 'Land at Holehouse Farm, Stewarton' has become 'Nethergate Farm, Dunlop'. Are there no restrictions on setting up a farming enterprise? I am aware that planning laws applicable to farming are less stringent than to other businesses but I would still have thought that some permissions would have been required.

In terms of planning, farming enterprises and associated development are generally acceptable where a site specific locational need has been demonstrated, as in this case.

4.12 This is a retrospective application, the farm is already in operation.

The applicant has been advised of the need for planning permission, and upon establishing that unauthorised work had taken place, they were advised not to undertake any further development and to submit the necessary planning application. This is a standard procedure for retrospective planning applications.

4.13 If the new house is never built, how long will the temporary accommodation be allowed to remain on site? Who will ensure that any time limit is adhered to?

An appropriately worded condition can be attached to any grant of planning permission to ensure that the caravan is permitted on a temporary basis only. This can be subsequently monitored and enforced by the Council's enforcement officers.

4.14 There appears to be inequality of treatment between this application and that of near neighbours, who wish to convert some unused farm buildings into residential accommodation. I believe they are being subject to the most stringent appraisal – this does not seem to be the case for Nethergate Farm, which is a new venture started without reference to others, including yourselves, and you appear to have taken little or no action to control the development.

The development is subject to control through this application, and has been assessed in the same manner as any other planning application, with publication in the weekly list of planning applications, consultations undertaken and assessment against development plan policy. In terms of action taken to control the development, the applicant has been advised of the need for planning permission, and upon establishing that unauthorised work

had taken place, they were advised not to undertake any further development and submit a planning application. This is a standard procedure for retrospective planning applications, where the nature of the unauthorised works is not such as to automatically preclude the possibility of permission being granted in retrospect. Any retrospective seeking of planning permission is always at the risk of the application being refused with the necessity thereafter for the works to be removed.

Each planning application is assessed on the merits of the case and in line with the relevant policies in the development plan.

4.15 I am concerned about the commercial sustainability of this development. There is a £70,000 deficit shown at the end of the year, the proposed house does not feature in the financial projections, the income projections appear optimistic and no mention has been made of motor expenses, repairs or council tax in the expenditure.

The applicant has advised that a higher than average income can be explained by the fact that they are working in a niche market. In terms of planning policy, a labour justification has been provided.

4.16 I note that the project is reliant on public funds to the tune of £30,000 initially, and unspecified thereafter. Why should taxpayers' money be used to subsidise someone building a house on land not zoned for residential purposes and in a position which the applicants themselves state is prominent and therefore intrusive in the landscape?

The justification statement includes a letter from FWAG, which advises the farm may be able to access funding of up to £30,000 over a five year period. This letter is treated as supporting information to the application only. As stated above, the proposed house is located on the lower section of ground within the application site, and a condition may be attached to any grant of planning consent regarding landscaping.

4.17 The McKenzies make a great play of Foot and Mouth Disease which did not actually reach this area. Other farmers in the area look after their livestock with regular checks and do not require to build a house next to parcels of their land.

Foot and Mouth Disease is referred to in the Justification Statement in terms of monitoring stock and vehicular movements. The applicants have provided a SAC justification to demonstrate one full-time worker is required on site.

4.18 The water supply next to the public road is connected to a privately paid pipe, which connects to Mid Netherhill and South Netherhill. Both these properties pay domestic water rates and neither has been approached about tapping into the private pipe. It would be interesting to know at which juncture water is drawn off and if the McKenzies are being metered for business purposes.

Scottish Water has not objected to this application. It is the responsibility of the applicant to ensure all appropriate permits regarding water supply are obtained from Scottish Water.

A planning condition can be attached to any consent, to ensure a wholesome supply of water to the property.

4.19 Drainage services are non-existent at the moment. I understand the McKenzies have a soakaway which soaks into a ditch leading to a broken drain which does not now work properly. Waste water from the site flows across the road and down through other people's fields to a neighbouring property. Despite complaints, nothing has been done by the Council to put a stop to this nuisance. With effluent from the pigs, which are kept near the road, added to water draining from the field, this constitutes a health hazard to the many walkers who use this road. This will just continue to worsen if more animals are kept.

SEPA and this Council's Environmental Health Division have offered no objections provided the drainage arrangements are to the satisfaction of SEPA. In this regard, conditions may be attached to any consent requiring details of foul drainage to be submitted to this Division. The Environmental Health Division advised that no complaints have been received in relation to this site.

4.20 I note that the majority of hours in the labour requirement refer to work in two polytunnels. These polytunnels would be an eyesore, and the number of hours proposed for them seems excessive, I believe it to be 30,000 hours.

The labour justification indicates 525 hours per annum to be spent on the polytunnels. The applicant has been advised that the polytunnels are likely to require a prior notification. These structures are very functional in appearance, however they are appropriate to rural settings. Given their proposed positioning within the site they will be partly screened by the existing structures from the road.

4.21 Does the projected interest take into account possible interest rate rises? No mention is made of the price of the new house. How will this be paid for and to what extent will this affect the viability of the project? The amount the

McKenzies intend to draw for the next three years does not take into account inflation.

These details are not material to the determination of the application, rather it is the viability of the proposal which influences the determination of the application.

4.22 I have seen pig farms elsewhere, unaccompanied by farmhouses for good reason. Pigs plough up pasture into slurry and the smell is dreadful. The application states that 33 pigs are to be kept. Is this inclusive of the litter of piglets which have to be grown to a substantial size before slaughter or is it merely the number of sows? What provision is to be made to ensure that effluent does not escape onto the public road?

SEPA and the Environmental Health Division have been consulted, and offer no objection subject to conditions. A condition may be attached, should consent be granted, requiring details of the drainage to be submitted to this Division. The number of pigs in the labour justification is to demonstrate the labour required on site, however this number may fluctuate up or down.

4.23 Adoption for the Rural Stewardship Scheme is not certain. I note that the McKenzies belong to several organisations. Anyone can belong to these - I understand vetting is not a pre-requisite - and it looks good on an application.

Whether the enterprise is adopted into the Rural Stewardship Scheme is not a determining factor in this application, nor is the membership of any other related bodies.

4.24 This application was not advertised in the East Ayrshire section of the press but the last one did, why is this?

The original application for the house was advertised as Development Contrary to the Local Plan since it was for a house in the countryside without a labour justification. The amended plan included a labour justification and is not therefore considered to be contrary to the development plan.

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 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.

An agricultural labour statement has been submitted stating that the farm unit can justify one full time worker. The applicants have provided details of their business history, which operated from Newmilns. The smallholding was established in February 2001. The agricultural business has thus been operational for over two years. The use of this site for farming purposes will be further safeguarded by attaching an agricultural occupancy condition, should consent be granted.

East Ayrshire Local Plan

5.3 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 principle of a caravan to support a rural business proposal is acceptable. In this case, the location of the caravan is considered acceptable given that it is proposed on a temporary basis only and is only required until the house is constructed.

5.4 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;

An agricultural labour statement has been submitted which states that the business can justify one full time worker. The applicant has already a number of animals on site and is operating at a level equivalent to the labour requirement and an agricultural occupancy condition may be attached to any grant of planning consent.

- (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;

An agricultural labour statement has been submitted which states that the business can justify one full time worker.

- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or

It is not considered that this application relates to this point.

- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

Not relevant to this application.

5.5 Policy RES15 requires applicants for any new residential development in the countryside deemed acceptable in terms of Policies RES13 and 14 of the local plan, to meet two stated criteria, as follows;

- (i) to utilise any existing buildings which are considered capable of residential use in preference to the construction of new build housing; and
- (ii) to utilise areas of derelict or degraded land in preference to the development of greenfield land.

The policy also states that, in all cases, any new housing development will be required to consolidate and compliment existing farm steadings or small groups of houses, in preference to being isolated in the countryside.

There are no existing buildings within the application site, and the applicant has advised there are no areas of degraded land on site suitable to erect a house.

5.6 Policy RES16 states that 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 siting 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.

As is stated above, the Council will not generally be supportive, however, the applicants have provided information regarding their existing business, which was started in February 2001. The business has thus been operational for over 2 years. While the business has not been operational at this site for 2 years, the business chronology demonstrates a commitment to agriculture, and the applicants have provided a labour justification for a house, based on present needs.

5.7 Policy RES17 states that residential development in the countryside will not be permitted in nine stated circumstances of which only 3 are pertinent:-

- (i) where the extension would constitute an extension from those clearly defined groups of houses not delineated by a formal settlement boundary within the Rural Protection Areas as identified on the Local Plan maps;

It is not considered that this issue is relevant to this application, given the agricultural justification.

- (ii) where, in the opinion of the Council, the development would be unduly visually prominent, break the skyline when viewed from a public road, adversely affect the amenity and appearance of remote areas, wild areas or particularly picturesque locations, or diminish the natural or designed landscape quality and character of the area;

The site is in a relatively prominent location, however it is the least sensitive part of land within the applicant's ownership, and a condition may be attached to any consent to provide further screening.

- (iii) where the development would not meet the service requirements of the Council as Roads Authority or the standards of all appropriate statutory undertakers and other service providers.

From the consultee replies received and through the imposition of conditions, the proposal will comply with these requirements.

5.8 Policy ENV7 states that all developers will be expected to comply fully with the Council's existing and emerging Design Guidance and Policy documents relating to and advising on the particular type of development proposed. The policy also states that developments which do not meet the required design standards detailed in these documents will require to be fully justified and may not be supported by the Council.

As stated above, the proposed siting of the house sits in the least prominent location within the applicant's ownership, and a condition can be attached to provide screening. It is noted that there are certain aspects of the Design Guidance which prescribe a more traditional design, however more recent Scottish Executive Policy is more encouraging of differing styles. This proposal is considered to accord with Scottish Executive policy and guidance; this is addressed in Section 6 below.

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, the letters of representation which are addressed in Section 4 of the report, the planning history and the Scottish Executive Planning Guidance, and the impact upon the amenity of the area.

Consultation Responses

6.2 The consultation responses are detailed in the report and do not raise any issues sufficient to warrant refusal of this application.

Letters of Representation

6.3 As indicated in Section 4 above, there have been objections to this proposal, however none are considered sufficient to warrant refusal of this application. It should be noted that a letter of support has also been received for this proposal.

Planning Background

6.4 Scottish Executive Guidance -

Planning Advice Note (PAN) 72: Housing in the Countryside was published in February 2005. The PAN notes that there is considerable potential in the countryside for diversification, distinctiveness and individuality. It is stated that Planning Authorities should support a wide range of economic activity and seek to build a more financially and environmentally sustainable future. There is therefore support for the type of business to which this application relates. In relation to housing, the new Policy advises that there is an unmet demand for unique housing, and encourages the use of sustainable materials where appropriate, and the advice note specifically encourages the use of timber construction and cladding. Reduced reliance is thus placed on the need to replicate existing housing in the countryside for all circumstances, there is more focus on promoting diverse design, particularly where sustainable materials are

used, and where there are opportunities to create more economic activity in the countryside. This application is considered consistent with Scottish Executive Guidance.

6.5 Planning History -

- Planning Ref: 04/1272/AN – Prior notification for timber agricultural shed – Approved 08 March 2005
- Planning Ref: 05/0606/FL – Proposed agricultural timber shed – Withdrawn 09 August 2005
- Planning Ref: 05/0686/FL – Proposed new house, siting of temporary accommodation, new dog kennels, hen house and worm house – Withdrawn 9 August 2005

6.6 None of these applications are considered to raise any issues which would affect the recommendation.

6.7 The applicant obtained prior approval from the Planning Authority (Planning Ref: 04/1272/AN) for the timber shed in March 2005, to be erected to the south of the current location. They then erected the shed in its current location to take it away from the skyline and visual sightline of a neighbour. The Planning Authority advised this was not in accordance with the previously approved plans, and that given the proximity to the road a full planning application was therefore required. This was submitted (Planning Ref: 05/0606/FL), as was a separate application for the house, temporary caravan, kennels, hen house and worm house (Planning Ref: 05/0686/FL). The applicant was advised that an agricultural justification would be required for the proposed house, and following discussions withdrew the two separate applications and submitted the proposal as a whole which is the subject of this report.

Impact Upon Amenity

6.8 As stated above, it is considered that the impact on visual amenity will be acceptable. A condition regarding landscaping would help the development blend in, and the proposed structures are in the least sensitive part of the application site, being on the lowest ground. While the proposed materials are not reflective of existing properties, they do offer a quality solution. Consequently, this is not considered a negative feature, and all structures on site (except the worm house) will utilise similar materials for consistency within the unit.

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 Section 5 of the report, this application is considered consistent with the Development Plan. Therefore 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 considered to be of such significant weight against the proposal as would merit refusal of the application.

9. RECOMMENDATION

9.1 It is recommended that the application for planning permission be approved subject to the conditions listed 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 the application will not require to be referred to the Development Services Committee as that would not represent a significant departure from policy.

Alan Neish

Head of Planning, Development and Building Standards

18 November 2005
(CP/MMM/RH)
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letters of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. Application Nos.: 04/1272/AN, 05/0606/FL & 05/0686/FL.
8. PAN 72: Housing in the Countryside.

Anyone wishing to inspect the above papers please contact Claire Peters, Planning Officer on 01563 576779.

Implementation Officer: Dave Morris

050983FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

05/0983/FL

Site of Proposal: Land at Nethergate Farm
DUNLOP
KA3 3ER

Nature of Proposal: Proposed New House, Siting of Temporary
Accommodation, New Dog Kennels, Hen
House, Wormery and Timber Agricultural Shed
and New Access

Name & Address of Applicant: Mr and Mrs McKenzie
Nethergate Farm
DUNLOP
KA3 3ER

Name & Address of Agent: SAC Building Design Services
Auchincruive
AYR
KA6 5HW

DPOs Reference: CP/MMM/RH

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

1. The proposed house shall only be occupied by a person locally employed or locally last employed full time in agriculture or in forestry on the land to which the dwelling relates; or by a dependant of such a person residing with him or her (or a widow or widower of such a person).

REASON The proposed development constitutes the construction of a dwellinghouse in the countryside which would otherwise be refused.

2. Notwithstanding the plans hereby approved, the polytunnels referred to in the SAC justification, shall be operational on site, prior to the commencement of building works for the proposed house.

REASON The proposed polytunnels constitute part of the agricultural justification for the house.

3. Notwithstanding the plans hereby approved details of existing and proposed finished site levels and floor levels for the proposed dwellinghouse shall be submitted to and approved in writing by the Planning Authority, prior to development commencing on site. The levels shall be such as to confirm that the house is to be formed in cut, where any existing gradient is apparent.

REASON To enable the Planning Authority control over the development of the site in the interests of residential and visual amenity.

4. Notwithstanding the plans hereby approved, the proposed finish of the timber for the external walls of the house, shall be submitted to and approved in writing prior to development commencing on the house.

REASON In the interests of visual amenity.

5. Notwithstanding the plans hereby approved, a landscaping scheme, to include tree planting to the north of the existing structures, shall be submitted to and approved by the Planning Authority prior to the commencement of building works for the proposed house, and shall be implemented not later than the next available planting season thereafter.

REASON In the interests of visual amenity.

6. The kennels shall only be used for purposes ancillary to the residential enjoyment of the associated house and shall not be used for any commercial purposes.

REASON To safeguard the amenity of the area.

7. Notwithstanding the plans hereby approved, the caravan is approved for a temporary period only, and shall be removed from the site prior to the occupation of the dwellinghouse, or prior to the expiration of two years after the granting of this consent, whichever is sooner.

REASON In the interests of visual amenity.

8. Sightlines of $x = 2.5$ metres and $y = 90$ metres shall be provided and maintained at the junction of the access to the development with the public road with no obstruction to visibility greater than 1 metre in height being allowed within these areas.

REASON To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit.

9. Prior to work commencing on site, a layby shall be formed at the junction with the public road and private access; this layby shall be constructed to adoptable standard, with the minimum dimensions of width - 3.5 metres, length - 12 metres and 12 metre long entry and exit tapers, unless otherwise agreed in writing by the Planning Authority.

REASON In the interests of road safety.

10. No external construction works shall take place on site before 08:00 or after 18:00 on Mondays to Fridays and before 08:00 and after 13:00 on Saturdays and not at any time on Sundays.

REASON To minimise noise disturbance, in the interests of residential amenity.

11. Notwithstanding the plans hereby approved, any septic tank provided to serve the development shall be sited in such a manner as to allow easy access for emptying by the tanker.

REASON In the interests of public safety.

12. Prior to the commencement of development on site, full details of a SUDS system for the development shall be submitted to and approved by the Planning Authority and installed on site prior to the occupation of the dwellinghouse.

REASON To ensure that adequate drainage is provided.

13. No waste material shall be burned on the site at any time.

REASON To prevent nuisance to nearby properties.

14. Notwithstanding the plans hereby approved, the roof shall be covered in slates, or high quality slate substitute, the details of which shall be submitted to and approved in writing by the Planning Authority prior to work commencing on site.

REASON In the interests of visual amenity.

15. The applicant shall ensure that the site is served by a wholesome and adequate water supply, prior to the occupation of the house and which shall thereafter be maintained.

REASON In the interests of residential amenity.

16. Details of foul drainage arrangements shall be submitted to and approved in writing by the Planning Authority prior to development commencing on site.

REASON In the interests of public health and residential amenity.

17. The approved foul drainage arrangements shall be implemented and operational prior to the occupation of the house and thereafter maintained in accordance with the approved details.

REASON In the interests of public health and residential amenity.

NOTES:

1. The applicant must obtain a road opening permit from East Ayrshire Council's Roads and Transportation division, prior to work commencing on site.
2. Any waste materials arising from the work shall be removed from the site by licensed waste carriers, to a site that has either an appropriate waste management license, or is registered with SEPA as exempt from licensing.
3. The applicant is advised to contact Scottish Water (Tel: 0845 601 8855) regarding connection to the public water network and to ensure the provision of adequate water pressure.
4. The applicant is advised to contact Scottish Water's Planning and Development Services Department (419 Balmore Road, Glasgow, G22 6NU; Tel: 0845 601 8855) to discuss whether the existing water supply may need upgrading in view of the proposed development.

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