

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 01 SEPTEMBER 2006

**05/1065/FL REMOVAL OF EXISTING STORAGE BUILDINGS AND THE
ERECTION OF 2 DETACHED DWELLINGHOUSES AND DETACHED
GARAGE AT SMITHY COTTAGE LUGTON
BY LINDA GOULD AND SAM MCLELLAND**

Report by Head of Planning, Development and Building Standards

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The proposal aims to remove the industrial buildings from the site and erect two detached five bedroom suburban style villas and a semi-detached garage block 6 metres by 12 metres. It is proposed to finish the buildings in champagne coloured roughcast with buff facing bricks and grey marley modern roofing tiles. The proposal includes the improvement of the driveway to provide intervisible passing places and four visitor parking places.

2. RECOMMENDATION

2.1 **It is recommended that the application for planning permission be refused for the reasons indicated on the attached sheet.**

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, this application fails to accord with the Development Plan. Therefore the application should be refused 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 as would merit 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 this would 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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05/1065/FL REMOVAL OF EXISTING STORAGE BUILDINGS AND THE ERECTION OF 2 DETACHED DWELLINGHOUSES AND DETACHED GARAGE AT SMITHY COTTAGE LUGTON BY LINDA GOULD AND SAM MCLELLAND

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 not for a single dwelling.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is linear in nature and lies to the south of the Lugton Water adjacent to the western boundary of Lugton and covers approximately 1900m². It is accessed from the road way behind the former Lugton Inn site. A hardcore access driveway of approximately 130 metres long by 5 metres wide leads to a wider area approximately 23m by 38m which contains two vacant industrial style buildings and a vacant caravan. The widened section of the site is relatively flat and is screened from the village of Lugton by higher ground.

2.2 **Proposed Development:** The proposal aims to remove the industrial buildings from the site and erect two detached five bedroom suburban style villas and a semi-detached garage block 6 metres by 12 metres. It is proposed to finish the buildings in champagne coloured roughcast with buff facing bricks and grey marley modern roofing tiles. The proposal includes the improvement of the driveway to provide intervisible passing places and four visitor parking places.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division have indicated that they have no objection to the proposal providing appropriate conditions are attached to any grant of planning permission addressing the access to the site, refuse collection points and the timing of said works.

Appropriate planning conditions can be attached to any grant of planning permission should the application be approved.

3.2 East Ayrshire Council's Roads and Transportation Division Flooding Section) have confirmed that flood inundation maps for the area indicate that the site may be affected during a 1 in 100 year flood event. Therefore, East Ayrshire Council's Roads and Transportation Division (Flooding Section) object to the proposal unless a Flood Risk Assessment is provided which shows that the site can be appropriately developed as required under SPP7 Planning and Flooding.

The applicant was requested to provide the appropriate flood risk assessment however no such report has been provided.

3.3 Scottish Environment Protection Agency (SEPA) have indicated that they have no objection to the proposal however have concerns that a biological treatment plant is being proposed and would prefer that a passive form of treatment such as a septic tank and reedbed be utilised instead.

If the application was to be approved a condition could be attached to any grant of consent addressing this matter.

3.4 East Ayrshire Council Environmental Health have indicated that the site has been identified as the location of limekilns and more recently unknown commercial activities. A site walkover identified areas of soil contamination (oil spills), discarded fuel tanks and oil drums. The furnaces of the limekilns are also visible on the site boundary. These observations would suggest that there is a significant possibility of soil contamination to be present at this location, the site is also adjacent to surface water which could be affected by such contamination. Given that there is a significant potential of soil contamination on the site, it is recommended that a full site investigation in accordance with PAN 33 and BS10175:2001 be undertaken and approved prior to the approval of the application.

If the application was to be approved it would be recommended that a condition be applied that required appropriate site investigation works be carried out and suitable mitigation measures agreed and implemented all to the satisfaction of the Planning Authority.

3.5 Dunlop and Lugton District Community Council have indicated that they have no objection to the proposal.

Noted.

4. REPRESENTATIONS

The application was advertised as development contrary to the development plan and no letters of objection have been received in relation to this proposal.

However, a two-page letter of support has been provided by the applicant, which summarised, indicates the following;

4.1 While the application site is outwith the settlement boundary the access to the site is from within the settlement boundary and on this basis should be considered to be an extension to the settlement.

The proposal could be considered to be either an extension to the settlement boundary or as a new housing site in the Countryside, however it fails to accord with the requirements of the Ayrshire Joint Structure Plan and the East Ayrshire Local Plan, whichever way the proposal is assessed, (see Section 5 below).

4.2 The application site is a brownfield site and SPP3 Planning and Housing indicates that brownfield sites should be used in preference to greenfield sites.

It is correct that SPP3 Planning and Housing indicates that brown field sites should be developed in preference to greenfield sites, however this is only applicable to developments which have appropriate justification. This proposal does not in the first instance, have an appropriate justification.

4.3 The proposal would result in the removal of the industrial buildings from the rural protection area.

It is noted that the proposal would result in the removal of an industrial building from the rural protection area however it would also result in the erection of two unjustified dwellinghouses in the Rural Protection Area whose design is of a strongly suburban appearance incongruous to the area. The Council has other measures, aside from approving inappropriate housing, available to secure any enhancement of land considered necessary.

4.4 Paragraph 50 of SPP3 recognises that new housing out with settlements may have a part to play in economic regeneration and environmental renewal and increasing the residential population can assist economic and social regeneration.

The economic benefit of new development in the rural location is generally accepted, however, the Local Plan details circumstances where economic benefit can be a supporting factor. The proposed new houses have no justification to be erected within the rural protection area and therefore the proposal does not accord with SPP3.

4.5 SPP15 Planning & Rural Development also recognises that social, economic and environmental benefits can be achieved through appropriate rural development particularly where it can support existing public services and enhance and regenerate declining rural areas.

The economic benefit of new development in the rural location is noted however the proposed new houses have no justification to be erected within the rural protection area, therefore the proposal does not accord with SPP15.

4.6 Redevelopment of the site would prevent the antisocial behaviour problems which currently plague the site.

Anti-social behaviour problems are Police matters and while the Planning Authority may have sympathy with the local residents it is not considered to be a significant material planning consideration nor a basis for approving development contrary to the Local Plan.

4.7 We note the Planning Authority's concern regarding the design of the proposal and we would be willing to accept planning conditions requiring the redesign of the houses if planning permission were approved.

It is not possible to condition such a significant change to the proposal within the context of a full planning consent. That aside, the prime concern is the non-compliance of the proposal with the principles justifying residential development at this location in terms of the Local Plan.

4.8 The issues raised by the Roads Division can likewise be addressed through the attachment of appropriate conditions to any grant of planning permission.

Given the proximity of the site to the adjoining watercourse and in accordance with the requirements of the Roads Division, it was considered appropriate to request a Flood Risk Assessment prior to the determination of the application however the applicant failed to provide the requested information.

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 ADS3 states that new residential, commercial, cultural, educational and community development shall be directed to, and located within, settlements as defined in local plans.

This proposal is located outwith the settlement boundary of Lugton and is therefore contrary to policy ADS3.

5.3 Policy G5 states that development proposals outwith settlements in the Rural Protection Areas 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.

As the proposal does not have a site specific locational need, it cannot be justified as being of social or economic benefit to the community. It does not contribute to rural land diversification nor is it required for the operational needs of agriculture and forestry, therefore the proposed houses do not meet any of the above criteria and are therefore contrary to policy G5.

East Ayrshire Local Plan

5.4 The proposed development can either be defined as an extension to the settlement boundary or as residential development in the countryside. Policies RES 2 and RES 13 deal with these issues.

5.5 Policy RES2 states that, with the exception of dwellings covered by Policies RES13 and 14, proposals to extend the greenfield supply of land for residential development outwith, but adjacent to, the settlement boundaries will not be acceptable unless five stated criteria are fully satisfied, these being:

- (i) there is a demonstrated shortfall in the supply of effective housing land within the East Ayrshire Housing Market Area;
- (ii) the site can be demonstrated to be effective and contribute to output during the shortfall period;

- (iii) the proposal meets the terms of the Housing Development Strategy of the Local Plan;

There is no demonstrated shortfall of effective housing land within the East Ayrshire Housing Market Area therefore the proposal is contrary to policy RES 2(i),(ii) and(iii).

- (iv) road access and all other services and infrastructure can be provided to the standards required by the relevant public and statutory service providers; and

Conditions can be attached to any grant of consent addressing the roads issues however a flood risk assessment is required prior to the determination of the proposal, in accordance with SPP7 Planning and Flooding.

- (v) the proposal accords with the Council's policies with regard to design and layout and has minimal impact on the visual and natural environment.

The proposed houses fail to accord with the Council's Design Guidance due to their suburban appearance, scale, design and proposed external materials.

5.6 Policy RES13 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 following four stated criteria.

- (i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;
- (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;
- (iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or
- (iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

No information has been submitted to justify the proposal in relation to criteria (i)-(iii) above. Criterion (iv) above cannot be applied to this proposal.

Developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

The applicant has failed to provide site specific locational need for the development

5.7 Policy RES17 states that residential development in the countryside will not be permitted in nine stated circumstances. Two of these circumstances are relevant to the application, these being:

(iv) where the development would constitute an inappropriate extension of development into the countryside from existing settlement boundaries;

It is considered that the proposed development would constitute an urbanisation of the countryside and would be an inappropriate extension of the existing settlement boundary of Lugton.

(vi) where the development would, in itself, constitute or add to sporadic or ribboning of development along public or private roads in rural locations.

It is considered that approval of this application would lead to sporadic development in a rural location.

5.8 Policy RES 22 of the East Ayrshire Local Plan indicates that minimum private open space as set out in Schedule 4 of the Local Plan should be adhered to.

The proposed layout of the development would provide suitably designed private garden ground in excess of the 100 sq metres per house required by Schedule 4 of the East Ayrshire Local Plan.

5.9 Policy ENV 7 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. Developments which do not meet these required design standards detailed in these documents will require to be fully justified. In this instance the relevant design guidance is New Residential Development in the Countryside.

The proposed house type fails to comply with the requirements of the Council's Design Guidance document for new residential development in the countryside due to its scale, design and proposed external materials.

5.10 Policy ENV 17 requires that in areas known to have flooded in the past, a precautionary approach to development will be pursued. The Council will require any developer wishing to develop land which has been known to flood in the

past to fully investigate the implications of flood risk on their proposals and the adjoining land and property.

The applicant has declined to provide a flood risk assessment therefore the proposal fails to accord with this policy.

5.11 Policy ENV18 indicates that in cases where a development is proposed on land which is known or suspected to be contaminated, the Council will require the developer to investigate and identify the nature of the contamination and detail the remedial measure to be undertaken.

If the application was to be approved it would be recommended that the decision notice be withheld until the appropriate site investigation works were carried out and approved.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of this application are the consultation responses, the letter of support covered in Section 4, SPP3 Planning for Housing and SPP7 Planning and Flooding, impact upon the amenity of the area and the Ayrshire Joint Structure Plan – Finalised Version.

Consultation Responses

6.2 The consultation responses are detailed in the report. The Roads Division object to the proposal due to the failure to provide a flood risk assessment for a proposal in an area known to flood.

Letter of Support

6.3 The applicant has indicated that the site should be redeveloped as it is a brown field site adjacent to the settlement boundary of Lugton and is currently the focus for antisocial behaviour in the area.

Ayrshire Joint Structure Plan – Finalised Version

6.4 Policy COMM 5 states that throughout the rural areas there shall be a general presumption in favour of housing development within existing communities, the reuse and redevelopment of redundant buildings for housing, the development of infill sites within existing housing groups and clusters and the development of housing to meet the operational requirements of agriculture and other rural businesses.

The three Councils shall identify in local plans or supplementary planning guidance policies where various types of residential development in the countryside would be considered acceptable, and establish criteria against which single or small scale residential development in the countryside can be assessed.

The proposed house does not meet with any of the above circumstances and the application is therefore contrary to policy COMM 5 of the Finalised Ayrshire Structure Plan.

6.5 SPP3 Planning for Housing This Scottish Executive policy document indicates that the planning system should seek to create quality residential environments, guide development to the right places and deliver an adequate supply of housing land.

The Ayrshire Joint Structure Plan and East Ayrshire Local Plan are upto date policy documents which provide the appropriate framework against which to assess the location, necessity for and design of any residential development within East Ayrshire. The proposed development fails to accord with the requirements of these documents.

6.6 SPP3 also indicates that in remote rural areas with substantial long term depopulation, proactive planning measures to help increase the resident population could assist economic and social regeneration.

This planning application site is not within a remote rural area and does not suffer from economic or social depopulation.

6.7 SPP7 Planning and Flooding indicates that new development should be free from significant flood risk from any source.

As the applicant has failed to provide a flood risk assessment it is not possible to judge if the proposal will be significantly affected by flooding from the adjacent watercourse. However flood mapping for the area indicates that the site would be subject to flooding during a 1in 100 year flood event.

Impact Upon Amenity

6.8 It is considered that the proposed development would be detrimental to the amenity of the local area as it would result in an unplanned extension of the settlement boundary of Lugton and therefore result in the suburbanisation of the Rural Protection 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 indicated in Section 5 of the report, this application fails to accord with the Development Plan. Therefore the application should be refused 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 as would merit approval of the application.

9. RECOMMENDATION

9.1 It is recommended that the application for planning permission 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 this would represent a significant departure from policy.

24 August 2006
(CSI/RH)

FV/DVM

Alan Neish
Head of Planning, Development and Building Standards

LIST OF BACKGROUND PAPERS

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Approved Ayrshire Joint Structure Plan.
5. Adopted East Ayrshire Local Plan.
6. Letter of Support

Anyone wishing to inspect the above papers please contact Craig Iles, Senior Planning Officer, on 01563 576772.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 05/1065/FL

Site of Proposal: LAND TO REAR OF SMITHY COTTAGE
LUGTON
KA3 4ED

Nature of Proposal: REMOVE EXISTING OFFICE/STORAGE
BUILDINGS AND ERECTION OF 2 NO
DETACHED DWELLING HOUSES AND
DETACHED GARAGE

Name & Address of Applicant: LINDA GOULD AND SAM MCLELLAND
SMITHY COTTAGE
LUGTON
KA3 4ED

Name & Address of Agent: KWC ARCHITECTURAL SERVICES
9A LOWNDES STREET
BARRHEAD
GLASGOW
G78 2QX

DPOs Reference: <<CSI/RH>>>

The above FULL application should be refused on the following grounds:

1. The proposed development is contrary to the requirements of Policy G5 of the Approved Ayrshire Joint Structure Plan and Policy COMM 5 of the Finalised Ayrshire Structure Plan as the proposed houses have not been fully justified as appropriate within the Rural Protection Area.
2. The proposed development is contrary to the requirements of Policies RES 2 and 13 of the Adopted East Ayrshire Local Plan as the proposed houses have not been appropriately justified.

3. The proposed development is contrary to the requirements of Policy RES 17 of the Adopted East Ayrshire Local Plan as the proposed residential units would constitute an inappropriate extension of development into the countryside from the existing settlement boundary.
4. The proposed development is contrary to Policy ENV17 of the Adopted East Ayrshire Local Plan as the applicant has failed to provide a flood risk assessment. Consequently the proposed development is also contrary to SPP7 Planning and Flooding as it would result in development within a flood plain.
5. The proposed development is contrary to Policy ENV7 of the Adopted East Ayrshire Local Plan as the housing does not accord with the Council's Design Guidance for Housing in the Countryside due to the proposed scale, design and use of external materials.

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