

## **EAST AYRSHIRE COUNCIL**

**SPECIAL SOUTHERN LOCAL PLANNING COMMITTEE: 13 APRIL 2007**

**06/1118/FL: ERECTION OF TIMBER CATTERY / SHED  
AT 82 MAIN STREET, OCHILTREE  
APPLICATION BY MS LOUISE MALONE AND MR PHILIP SMEATON  
EXECUTIVE SUMMARY SHEET**

### **1. DEVELOPMENT DESCRIPTION**

- 1.1 It is proposed to erect a timber cattery/shed within the back garden to house up to 24 cats, most of which are presently kept within the house. The cattery/shed measures 10.8 metres long by 3.6 metres wide by 2.3 metres high and will be 30 metres from the rear of the applicants' dwelling house, close to the boundary with the gardens of neighbouring dwelling houses at 1 a-7a Broom Crescent. The cattery/shed, which has been substantially erected but not yet finished or put into use before the planning application was submitted, has a pitched roof and internally will be sub divided into sleeping areas, exercise areas, quarantine area and walkway.
- 1.2 The cattery/shed will be used to house and breed a new and rare (in this country) breed of cat known as La Perm to facilitate the applicants' hobby of showing cats at local and national shows. The cattery/shed will not be used for cat boarding purposes. An element of business use is involved with the applicants' indicating that some of the kittens bred will be sold to enable the hobby to eventually become self sufficient.

### **2. RECOMMENDATION**

- 2.1 **It is recommended that the application be approved subject to the conditions listed on the attached sheet.**

### **3. SUMMARY OF ANALYSIS**

- 3.1 As indicated in section 5 of the report, the application is considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that they are not of sufficient weight to justify a departure from policy in this case.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

**Alan Neish**  
**Head of Planning and Economic Development**

**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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**APPLICATION BY MS LOUISE MALONE AND MR PHILIP SMEATON**

**Report by Head of Planning and Economic Development**

**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, because the proposed development is subject to an objection.

1.2 This application was first presented to the Southern Local Planning Committee on 23 March 2007 at which time the Committee, following a Planning Hearing, resolved to undertake a site visit prior to determination of the application.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site lies within the back garden of a 2 storey, semi-detached dwellinghouse on the north side of Main Street and within the Conservation Area of Ochiltree. The back garden is long and narrow measuring 58 metres long by 8 metres wide and is surrounded by the back gardens belonging to adjoining residential properties.

2.2 **Proposed Development:** It is proposed to erect a timber cattery/shed within the back garden to house up to 24 cats, most of which are presently kept within the house. The cattery/shed measures 10.8 metres long by 3.6 metres wide by 2.3 metres high and will be 30 metres from the rear of the applicants' dwelling house, close to the boundary with the gardens of neighbouring dwelling houses at 1 a-7a Broom Crescent. The cattery/shed, which has been substantially erected but not yet finished or put into use before the planning application was submitted, has a pitched roof and internally will be sub divided into sleeping areas, exercise areas, quarantine area and walkway.

2.3 The cattery/shed will be used to house and breed a new and rare (in this country) breed of cat known as La Perm to facilitate the applicants' hobby of showing cats at local and national shows. The cattery/shed will not be used for cat boarding purposes. An element of business use is involved with the applicants' indicating that some of the kittens bred will be sold to enable the hobby to eventually become self sufficient.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Environmental Health Section has no objection to the proposed development advising that a licence would be required from the Council's Licensing Section should the applicant intend to operate a commercial cat boarding establishment.

***The applicant has made it clear that cat boarding for commercial purposes is not intended. However should the Committee be minded to approve this application then this should be reinforced by condition to ensure, in the interests of residential amenity, that the use does not become commercial or is not intensified beyond the hobby specified.***

3.2 Scottish Power Energy Networks has no objection to the proposed development.

***Noted.***

3.3 Scottish Water has no objection to the proposed development.

***Noted.***

3.4 Scottish Environment Protection Agency has no objection to the proposed development provided drainage arrangements are to its satisfaction.

***An appropriate advisory note could be added to any approval granted.***

3.5 The Architectural Heritage Society of Scotland has no comment to make on the proposed development.

***Noted.***

3.6 Ochiltree Community Council has not responded to the letter of consultation.

***Noted.***

### 4. REPRESENTATIONS

4.1 One third party letter of objection has been received with respect to the proposed development and the main points of objection are summarised as follows:

4.2 The proposed development is too close to existing residential properties and will cause noise and pollution to its surrounding area as a direct result of keeping 25 to 30 cats in a shed for the sole purpose of producing kittens to sell. Enjoyment of neighbouring gardens will be affected as will property values.

***Although close to the site boundary the proposed development is at least 10 metres away from the nearest residential buildings in Broom Crescent and the Environmental Health Division has made no adverse comments about it. Therefore issues of noise and pollution cannot be used to determine the suitability of this application. Whilst the applicants' assertion is accepted that the cattery/shed is primarily to promote a hobby, there is nevertheless an intensity (housing for up to 24 cats) and commercial (sale of bred kittens) element to the development which means that it cannot be solely regarded as incidental to the enjoyment of the dwelling house. In such circumstances it would be prudent, if the Committee is minded to approve this application, to impose conditions which will initially restrict the length of consent to a limited period after which any further consent would be dependent on an assessment of the actual impacts arising from the proposal during the period of consent. Secondly, conditions can ensure that the use does not intensify into, for example, commercial cat boarding or through any increase in the number of cats housed. Affect on property values cannot be taken into account in the planning assessment of the proposals.***

## **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 (1999) and the Adopted East Ayrshire Local Plan (2003).

### Ayrshire Joint Structure Plan

5.2 There are no policies in the Structure Plan especially relevant to the proposed development.

***Noted.***

### East Ayrshire Local Plan

5.3 Policy IND11 states that the Council will, where planning permission is required, be supportive of the operation of small businesses in residential properties or associated outbuildings subject to the following criteria:

- (i) the primary use of the property remains residential;

***The sale of bred kittens will as proposed be an infrequent and small scale side to the cattery and will not affect the primary use of the property which remains residential.***

- (ii) the business can be adequately be accommodated within the existing property;

***The proposed cattery will be located within the garden grounds but only occupies a small part of it.***

- (iii) the business use does not adversely affect the existing residential use of the property or impact adversely on the other residential properties in the area; and

***As indicated in section 5.3(i) above the proposed development will not affect the existing residential use. As also indicated in section 4.2 above no evidence has been produced to indicate the proposed development would have an adverse impact on the surrounding residential environment. However as the proposed development is not considered to be incidental to the enjoyment of the dwelling house to which it relates, it is considered important for surrounding residential amenity to ensure, if permission is granted, that appropriate conditions are imposed to monitor and restrict any intensification of the use of the cattery. These conditions should firstly, limit the period of consent to 2 years after which any further consent would be dependent on an assessment of any adverse impacts during the period of consent and, secondly, ensure that the use does not intensify into, for example, commercial cat boarding or through any increase in the number of cats housed.***

5.4 Policy ENV4 seeks to ensure that all development within or affecting the setting of a Conservation Area or affecting the appearance or setting of a Listed Building, is sympathetic to the area or building concerned in terms of its layout, size, scale, design, siting, materials and colour of finish. The policy also states that development proposals should seek to preserve, enhance or incorporate features, which contribute positively to the character or appearance of the area and have due regard to the architectural and historic qualities of the area or building concerned.

***Although located in the Ochiltree Conservation Area and adjacent to a Category B Listed Building, the proposed development is located to the rear of the existing residential property to which it relates, and, given its scale and design is not considered to impact adversely on the surrounding built environment. Nevertheless, as the timber building is a temporary structure and lies within a Conservation Area, any time limiting condition on the***

***use of the cattery would also 'double up' as a test of the continuing suitability of such a structure in visual amenity terms.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representation received and the statement of support by the applicant.

### Consultations Responses

6.2 None of the consultation responses have raised any issues which would indicate that the application should be refused.

### Representations

6.3 It is considered that the representation made is either not valid, can be addressed by the imposition of conditions or is not of sufficient weight to merit refusal of the application.

### Statement of Support by Applicant

6.4 The applicants confirm that the cattery is required to facilitate their hobby of showing and breeding cats. A maximum of 24 cats can be housed in the cattery and some of the kittens bred will be sold. Although sales are likely to be infrequent -they have only sold 5 over a 2 year period -they hope that sales will eventually enable their hobby to become self sufficient. They have no intention of using the cattery as a commercial cat boarding establishment.

***It is considered that the above information confirms that the cattery is not solely incidental to the enjoyment of the dwelling house given the number of cats housed and the acknowledged infrequent sale of kittens. Equally it cannot be construed as a commercial business operating within the curtilage of a dwelling house because the primary purpose is to support the applicants' hobby. The best distinction that can be made is to say it is ancillary to the enjoyment of the occupier rather than the dwelling house itself. Although no evidence has been produced to indicate that the proposed cattery would be detrimental to surrounding residential amenity it would be prudent, as previously mentioned in sections 4.2, 5.3(iii) and 5.4 above, if this application is approved, to impose conditions which will allow the Planning Authority to monitor and review the suitability of the cattery after an initial period of 2 years and to ensure that the use of it does not intensify or materially change or cause significant impact on residential amenity.***

## **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, the application is 'Considered to be in accordance with the development plan. Therefore, given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997 the application should be approved unless material considerations indicate otherwise. As is indicated at Section 6 of the report, there are material considerations relevant to this application; however it is considered that they are not of sufficient weight to justify a departure from policy in this case.

## **9. RECOMMENDATION**

9.1 It is recommended that the application 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 and Building Control, the application will not require to be referred to the Development Services Committee because it would not be a significant departure from the development plan.

**Alan Neish**  
**Head of Planning and Economic Development**

03 April 2007  
SMcD/HM  
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).

Anyone wishing to inspect the above background papers should contact Stephen McDermott on 01563 555485.

***Implementation Officer: Dave Morris***

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 06/1118/FL

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Location	82 MAIN STREET OCHILTREE AYR KA18 2PF
Nature of Proposal:	ERECTION OF TIMBER CATTERY/SHED
Name and Address of Applicant:	MS LOUISE MALONE AND MR PHILIP SMEATON 82 MAIN STREET OCHILTREE AYR KA18 2PF
Name and Address of Agent	N/A

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DPO's Ref:  
PPO's Ref: Hugh Melvin

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

1. Permission is granted for a limited period of 2 years from the date hereof and at the expiration of this period the use of the cattery/shed shall be discontinued and the building removed from the land and the land restored to its original condition unless further permission is granted.

REASON -To enable the Planning Authority to review the suitability of the proposed development at the end of this period, in the interests of residential and visual amenity.

2. The proposed cattery/shed shall not be used as a commercial cat boarding establishment unless further permission is sought and obtained.

REASON -To ensure the nature of the approved use does not change without the further consideration and approval of the Planning Authority, in the interests of residential amenity.

3. No more than 24 cats shall be housed in the proposed cattery/shed at anyone time.

REASON -As this is the maximum number of cats the proposed cattery/shed can hold, in the interests of residential amenity

4. Details of the manner by which cat litter and waste materials generated as a result of the proposed development are to be disposed of shall be submitted to and approved by the Planning Authority prior to the commencement of the use hereby approved.

REASON -In the interests of residential amenity and public health.

Note to Applicant

1. The applicant should make contact with The Scottish Environment Protection Agency regarding the drainage arrangements for the site.