

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 11 AUGUST 2006

**06/0225/FL: PROPOSED SITING OF RESIDENTIAL CARAVAN
AT BARDARROCH LODGE, OCHILTREE
BY MR J DUNLOP**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning permission is sought for the siting of a static residential caravan within the red line site adjacent to the agricultural shed. The caravan is shown as 3.6 metres in width by 8.5 metres in length positioned at approximately 1 metre from the existing shed at its southern end. The application is retrospective as the caravan is already located on site.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As indicated in section 5 of the report, the application is not 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 refused 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 these are either not supportive of the application or do not provide sufficient weight to justify a departure from the development plan.

3.2 Although the applicant has indicated that there is an element of agricultural operations through grazing and management of livestock, this is not considered to be significant enough to justify or support living accommodation for a full time worker on the unit. No agricultural or business assessment has been submitted to establish in detail that the activities undertaken at the site or on associated land, amount to a justification for a full time residential unit of whatever form.

3.3 In terms of site security and supervision of the approved businesses, this does not justify approval of a residential presence on the site given the nature of the businesses being conducted. The applicants' supporting statement makes reference to incidents of break-in and breaches of site security resulting in the loss of expensive equipment but that this was at a time the static caravan, and indeed a residential presence, was already on site. The static caravan has in fact been located adjacent to the business for some time now, more or less during the whole period of operation of the businesses since planning approval was issued on 04 November 2005 and this apparently has not proved effective in terms of site security.

3.4 The siting of a caravan at this location is contrary to policy RES12 of the Local Plan on the grounds that there is no evidence that would suggest a full time worker requires to live on site for reasons other than those of security. Furthermore it is noted that the applicant has sold off Bardarroch Farm unit within a five year period in which case the proposal would remain contrary to the provisions of policy RES16 of the Local Plan.

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 not require to be referred to the Development Services Committee as it would not be a significant departure from the East Ayrshire Local Plan.

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 the proposed development is the subject of an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located approximately 4km west of the village of Ochiltree on land to the south of the A70 Ayr to Cumnock road. The red line site is located approximately 2km on the southern section of the Unclassified U74 minor road, directly adjacent to Bardarroch Farm Cottage. The site used to form part of a small wooded copse of trees, many of which have now been felled to allow for an area of hard standing and the erection of a large agricultural shed.

2.2 The application site is largely level rising slightly to the north and covering an approximate area of 5.72 hectares. However the land directly associated with the proposed development covers an area of approximately 5,000m² within the small wooded area. The site is bounded to the south and west by agricultural land and to the north by the unclassified road, while to the east the site boundary line is shared with an existing residential property at Bardarroch Farm Cottage. Access to the site is currently taken to the north through a large gateway, immediately adjacent to Bardarroch Farm Cottage.

2.3 **Proposed Development:** Full planning permission is sought for the siting of a static residential caravan within the red line site adjacent to the agricultural shed. The caravan is shown as 3.6 metres in width by 8.5 metres in length positioned at approximately 1 metre from the existing shed at its southern end. The application is retrospective as the caravan is already located on site.

3. CONSULTATIONS AND ISSUES RAISED

3.1 Ochiltree Community Council has no objections to the proposed development.

Noted.

3.2 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the condition that all parking associated with this proposal shall be contained within the site.

A condition could be attached to any consent granted for the development to meet the requirements of the Roads and Transportation Division.

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposed development provided that the drainage arrangements are to its complete satisfaction. Foul drainage is to be connected to a private sewer however as no details were provided, SEPA is unable to comment as to whether the proposal is considered to be acceptable and requests that any planning permission be withheld until such times that the drainage arrangements are agreed with SEPA. Surface water should be excluded from the foul drainage and discharged via a suitably designed Sustainable Urban Drainage System, such as a filter trench or French drain. All waste materials generated by this development that require to be removed such as construction and demolition wastes and surplus excavated materials must be removed from the site by licensed waste carriers. Waste must be removed to a site that has either an appropriate waste management licence or is registered with SEPA as exempt from licensing.

This application is retrospective. It is considered that should consent be granted for the siting of the caravan, a condition could be attached to the consent to ensure that the drainage of the site is to the complete satisfaction of the Planning Authority and SEPA.

4. REPRESENTATIONS

4.1 One letter of objection has been received raising concerns with regard to the proposed development. The points of objection are summarised as follows:

4.2 This is Mr. Dunlop's fourth retrospective planning application for this site and having read the East Ayrshire Local Plan, we can find no justification for this static caravan to be sited on what is a rural protection area. In fact to quote some points of the East Ayrshire Local Plan:

- (i) sites should contribute positively to the overall amenity of the area;
- (ii) fully respect the landscape and environmental quality;
- (iii) the siting of residential caravans is not supported by the Council;
- (iv) Reason for RES13 and RES14 is to protect the countryside from inappropriate developments;
- (v) Where it can be established that a farmhouse has been sold off within five years the Council will not support additional accommodation;
- (vi) The reason for RES12 is to protect the amenity of the area from the siting of temporary structures.

The fact that this is a retrospective planning application is not material to the determination of this application. An assessment of the proposed development is given in section 5 of this report.

4.3 The applicant is not an agricultural worker, he is an agricultural contractor who is running a pet store that caters for all pets including domestic rabbits, guinea pigs and birds and has now taken to selling beef, chicken and tripe – is this agricultural?

The applicant has indicated that he owns approximately 5 hectares of land at Bardarroch Lodge and rents a further 32 hectares of land at Trabboch. The applicant further states that he has livestock on these lands. In this regard there is an element of agricultural activity, although this is to a lesser degree than the existing approved agricultural contracting business and animal feeds sales and distribution business.

4.4 This static caravan has been here since last August being used constantly as the applicant's home as well as the applicant's son's plant hire business yard which brings with it a constant stream of vehicles. The situation has only been made worse by the fact that all the conditions have been breached which means the site has been allowed to deteriorate rapidly.

It is recognised that the static caravan has been on site for some time and is presently being used by the applicants. Issues regarding the operation of the agricultural contracting and animal feeds sales and distribution operations have been the subject of ongoing enforcement monitoring. At this time there are no outstanding enforcement issues relative to the Bardarroch Lodge site.

4.5 The applicant has given no thought to the constant intrusion of our privacy and has made little attempt to screen these caravans as well as everything else that is sited there. Therefore once again we find ourselves saying that because of the positioning and its close proximity to our property, it is having an adverse impact on the amenity and privacy of our home. We firmly believe that if this

static caravan remains firmly on site, it will only encourage Mr. Dunlop to continue to trade outwith the set opening hours.

The caravan which is currently on site is located at the southern end of the red line site adjacent to the agricultural shed approximately 38 metres from the site boundary with Bardarroch Farm Cottage. However, due to the scale of the static caravan and its position it is clearly visible when entering the site. It should be noted that as part of the approval of planning consent 05/1083/FL the applicant was required to undertake sensitive landscaping of the eastern boundary with Bardarroch Farm Cottage. The applicant has now provided a screen fence along the boundary of the objectors' property thereby reducing the visual impact of the shed and the static caravan and impact on privacy.

Continuing allegations of trading outwith agreed operational hours is a matter which is the subject of ongoing monitoring relative to the planning consent granted for the existing approved business. A second smaller touring caravan is registered to the business and it is stated by the applicants that this is used at agricultural fairs and shows for sales and marketing purposes.

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 Areas shall conform to the structure plan only where the development:

A has a demonstrated site specific locational need;

It is considered that a caravan at this location could have a site specific locational need as it is required for an authorised business at this site, if there was a persuasive justification.

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

A caravan itself cannot be justified in terms of economic and social benefit to the community.

C contributes to rural land diversification: or

A caravan would not contribute to rural land diversification.

D provides for the operational needs of agriculture and forestry.

The caravan is not directly required for any significant operational needs of agriculture and forestry – it is required to support an animal feeds and agricultural contracting business.

Overall, the proposal is considered to be contrary to Policy G5 of the structure plan.

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.

Given that permanent caravans are not permitted, It is considered that the proposal is contrary to policy RES 12 as it is not stated anywhere in the applicant's supporting statement that the caravan is required for a temporary period.

Consequently, it must be assumed that this is a permanent structure whose form is visually inappropriate on a permanent basis in the countryside and in respect of which there is no persuasive justification for such permanent accommodation.

5.4 Policy RES16 states that the Council will not be supportive of any proposals for additional houses in the countryside for agricultural workers where it can be established that:

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

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

The Council will not generally be supportive of proposals for new agricultural workers houses where the farm unit to which the proposal relates has been established for a period of less than two years. The 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.

It is considered that the applicant seeks permission for the static caravan on the basis of the establishment of a new 'farm unit' at Bardarroch Lodge with a view to occupying the caravan for a period of two years to allow the new unit to become established, thereby providing justification for a new dwellinghouse after the two year period. Further justification is sought for the establishment of a residential presence on the site on the basis of the approved businesses at Bardarroch Lodge in terms of site supervision and security.

However, it is a fact that the applicants sold the existing farmhouse and substantial lands at Bardarroch Farm in the last year. Further it is not considered that the retained agricultural unit at Bardarroch Lodge would in itself justify the approval of a dwellinghouse, or a temporary static caravan during establishment of a new agricultural unit, bearing in mind that only 5 hectares have been retained and the 32 hectares of rented land lies at some distance from Bardarroch Lodge. In terms of site security and supervision of the approved businesses, this does not justify approval of a residential presence on the site given the nature of the businesses being conducted. The applicants' supporting statement makes reference to break-ins and an incident in February this year resulting in the loss of expensive equipment. However this was at a time the static caravan, and indeed a residential presence, was already on site. The static caravan has in fact been located adjacent to the business for some time now, more or less during the whole period of operation of the businesses since planning approval was issued on 04 November 2005.

5.5 A residential caravan at this location is contrary to both structure and local plan policy and is therefore not acceptable in planning policy terms.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, representations, the planning history of the site and the Supporting Statement by the applicant.

Consultations Responses

6.2 The consultation responses received would indicate that approval of the application would not be inappropriate with the attachment of appropriate conditions.

Representations

6.3 The letter of representation raises issues with respect to the siting of such a caravan questioning the reasoning behind the siting and the resulting adverse impacts on privacy and residential amenity. It is considered that these issues are important in the determination of this application and consistent with the recommendation.

Planning History

6.4 The site in question has been the subject of four formal planning applications. This planning history is detailed below:

(i) 04/1004/AN - An Agricultural Notification for the erection of a shed in conjunction with Bardarroch Farm which was approved under delegated powers 23 November 2004.

(ii) 05/0309/FL: A detailed application for the change of use of existing agricultural shed to form storage for the sales and distribution of animal feeds to form storage for agricultural contracting machinery and farm machinery and the erection of a dwellinghouse. This application was refused by the Southern Local Planning Committee on 09 September 2005.

(iii) 05/1083/FL: A detailed application (retrospective) for the change of use of the existing agricultural shed to form storage for the sales and distribution of animal feeds to form storage for agricultural contracting machinery and farm machinery. This application was approved by the Southern Local Planning Committee on 04 November 2005. On 23 December 2005, a planning contravention notice was served on the applicant due to a failure to submit a requisite landscaping scheme within a stipulated timescale. The scheme was subsequently submitted on 23 January 2006 and consequently the terms of this notice were met by the applicant. A Breach of Condition notice was served on the applicant on 10 March 2006 for failure to complete the access road in terms of

issued planning consent. This notice was subsequently fully complied with by the applicant.

(iv) 05/0874/FL: A detailed planning application (retrospective) for the siting of a residential caravan on the application site was withdrawn from consideration on 22 February 2006. The present application is in effect a re-submission of this previous application.

Supporting Statement by Applicant

6.5 The existing building at Bardarroch Lodge was originally erected in 2004 as an agricultural shed associated with Bardarroch Farm which, at that time was owned by the applicant. The farm was sold in late 2004 with the agricultural shed being retained by the applicant in addition to some 5 hectares of land, The applicant had previously run an animal feed business associated with the agricultural holding at Bardarroch Farm and it was the intention to re-establish this enterprise in association with the establishment of a new agricultural holding distinct from Bardarroch Farm, centred around the newly erected agricultural shed. The new agricultural unit comprises the 5 hectares of retained land at Bardarroch Lodge and a further 32 hectares of land at Trabboch which is rented.

6.6 The existing business is considered to be a legitimate agricultural diversification in line with recent policy guidance at national level, the activities associated with which include the sale and distribution of agricultural supplies and an agricultural contracting business, planning permission for which was granted on 04 November 2005.

6.7 The Scottish Ministers have declared their commitment to maintaining strong, prosperous and growing communities in rural Scotland and to helping farming businesses adapt and diversify. Scottish Planning Policy 15: Planning for Rural Development acknowledges the changing economic structure of Scotland's rural area and gives encouragement for planning authorities to support a wide range of economic activity. Planning Advice Note 73: Rural Diversification defines rural diversification as the establishment of new enterprises in rural locations. This document states that this can mean existing businesses entering into new activity or the creation of new enterprises. It is the applicant's view that the existing business at Bardarroch Lodge represents an example of a rural diversification.

6.8 The proposed siting of the caravan is to accommodate the owners and operators of the existing business at Bardarroch Lodge and they require to live on site to facilitate the efficient running of the business and to ensure the viability and security of the enterprise. The siting of the caravan is justified as there is a demonstrated site specific locational need and that it provides for the operational needs of agriculture.

6.9 It is the view of the applicant that this application is for the provision of accommodation associated with a newly established agricultural unit and a legitimate rural diversification enterprise and any assessment as to the need for accommodation associated with the business should be on this basis.

6.10 This proposal relates not to the previous agricultural holding owned by the applicants at Bardarroch Farm but to the new agricultural holding at Bardarroch Lodge. Whilst it is accepted that the new holding has been in operation for a period of less than two years, it is considered that there is sufficient justification in terms of the operational needs of the business to justify the provision of a residential caravan on the site. The justification for the provision of a residential caravan relates to the continued economic operation of the business and the need to have a presence on site at all times. It has been stated that in some cases that the requirement for security does not in itself justify the provision of on site accommodation. It is accepted that in some cases that may be fair comment. However it should be recognised that breaches in the security of a business can have a detrimental impact on the economic viability of the operation. The applicants have experienced a number of break-ins to their business despite the supplies and machinery being stored in the agricultural shed. This activity has recently escalated with an incident in February of this year resulting in the loss of expensive equipment. Concern has been expressed by the applicants' insurers as to the need for a permanent presence on site due to the combustible nature of the agricultural supplies and machinery stored and the associated risks. The lack of on site supervision at all times poses a risk to the business and the immediately surrounding area.

6.11 In addition the land adjacent to Bardarroch Lodge in the ownership of the applicants is used for the grazing and keeping of livestock. These animals require supervision and care at all times and there is a requirement to have an on site presence in order to ensure the welfare of the stock is safeguarded.

It is considered that the applicant seeks permission for the static caravan on the basis of the establishment of a new 'farm unit' at Bardarroch Lodge with a view to occupying the caravan for a period of two years to allow the new unit to become established, thereby providing justification for a new dwellinghouse after the two year period. Further justification is sought for the establishment of a residential presence on the site on the basis of the approved businesses at Bardarroch Lodge in terms of site supervision and security.

However, it is a fact that the applicants sold the existing farmhouse and substantial lands at Bardarroch Farm in the last year. The opportunity existed at that time to retain some accommodation to fulfil the same purposes as the caravan now proposed. Further it is not considered that the retained agricultural unit at Bardarroch

Lodge would in itself justify the approval of a dwellinghouse, or a temporary static caravan during establishment of a new agricultural unit, bearing in mind that only 5 hectares have been retained and the rented land lies at some distance from Bardarroch Lodge. In terms of site security and supervision of the approved businesses, this does not justify approval of a residential presence on the site given the nature of the businesses being conducted. The applicants' supporting statement makes reference to an incident in February this year resulting in the loss of expensive equipment. However, this was at a time the static caravan, and indeed a residential presence, was already on site. The static caravan has in fact been located adjacent to the business for some time now, more or less during the whole period of operation of the businesses since planning approval was issued on 04 November 2005.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications may arise in terms of formal enforcement action to secure removal of the unauthorised caravan should the Committee agree to refuse this application.

8. CONCLUSIONS

8.1 As indicated in section 5 of the report, the application is not 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 refused 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 these are either not supportive of the application or do not provide sufficient weight to justify a departure from the development plan.

8.2 Although the applicant has indicated that there is an element of agricultural operations through grazing and management of livestock, this is not considered to be significant enough to justify or support living accommodation for a full time worker on the unit. No agricultural or business assessment has been submitted to establish in detail that the activities undertaken at the site or on associated land, amount to a justification for a full time residential unit of whatever form.

8.3 In terms of site security and supervision of the approved businesses, this does not justify approval of a residential presence on the site given the nature of the businesses being conducted. The applicants' supporting statement makes

reference to incidents of break-in and breaches of site security resulting in the loss of expensive equipment but that this was at a time the static caravan, and indeed a residential presence, was already on site. The static caravan has in fact been located adjacent to the business for some time now, more or less during the whole period of operation of the businesses since planning approval was issued on 04 November 2005 and this apparently has not proved effective in terms of site security.

8.4 The siting of a caravan at this location is contrary to policy RES12 of the Local Plan on the grounds that there is no evidence that would suggest a full time worker requires to live on site for reasons other than those of security. Furthermore it is noted that the applicant has sold off Bardarroch Farm unit within a five year period in which case the proposal would remain contrary to the provisions of policy RES16 of the Local Plan.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reasons listed 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 not require to be referred to the Development Services Committee as it would not be a significant departure from the East Ayrshire Local Plan.

Alan Neish
Head of Planning, Development and Building Standards

03 August 2006
(HM/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. One Letter of Representation.
4. Consultation responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Approved Ayrshire Joint Structure Plan (1999).
7. Statement of Support by Applicant

Anyone wishing to inspect the above background papers should contact Hugh Melvin on 01563 555481.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0225/FL

Site of Proposal:	Bardarroch Lodge OCHILTREE
Nature of Proposal:	Siting of Caravan
Name & Address of Applicant:	Mr John Dunlop Bardarroch Lodge OCHILTREE KA18 2RR
Name & Address of Agent:	Lawrence McPherson Associates 6 The Atrium AYR KA8 8EX

DPOs Reference: HM/MMM

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

1. The Council considers that there is no proven site specific locational need for a static residential caravan at this location. Furthermore the Council considers that any agricultural activities undertaken from the application site are not of such significance as to justify or support the full time presence of a worker on site and in view of the fact that the farmhouse once associated with the application site has been sold separately from the lands retained by the applicant. The siting of a residential caravan on the application site cannot therefore be justified in terms of the requirements of RES12 and RES 16 of the Adopted East Ayrshire Local Plan 2003 or in terms of Policy G5 of the Approved Ayrshire Joint Structure Plan 1999.
2. The proposed caravan is a visually unacceptable form of permanent development in the countryside.

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