

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 02 DECEMBER 2005

**05/1059/OL: PROPOSED REDEVELOPMENT OF BROWNFIELD SITE AND
ERECTION OF FIVE DWELLINGS AT FORMER NURSERY SITE,
POLQUHIRTER, NEW CUMNOCK**

APPLICATION BY MESSRS. J. & R. WILSON

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the development of the site for residential purposes for five dwellinghouses. No details of the house types have been submitted at this stage although the applicants state that the dwellings proposed will be sympathetic with the rural environment and are anticipated to be one and a half storey in height. However, the applicant has provided an indicative layout showing five dwellings in a small cul-de-sac arrangement with a single vehicular access point onto the A76 trunk road. The indicative layout is spacious and can comfortably accommodate the proposed dwellings.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

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 but it is considered that they are not of sufficient weight to justify a departure from policy in this case.

3.2 The application under consideration is for a residential development of five dwellings on a site within the Rural Diversification Area but no justification has been provided for the development in this rural area. It is accepted that this is a 'brownfield' site given the previous use as a nursery and market garden but with

the exception of minor structures, the site has become more naturalised into the wider rural area in which it is located.

3.3 It is noted that there are no third party objections and given the removal of the previous recommendation of refusal by the TRNMD, there are no significant adverse comments from consultees. The indicative layout provided by the applicants shows that this is generally acceptable and can comfortably accommodate the proposed dwellings.

3.4 Notwithstanding the supporting statement provided by the applicant making specific reference to Planning Advice Notes and Scottish Planning Policy, it is considered that the proposed development is premature pending the formal review of the East Ayrshire Local Plan and approval of the development would be prejudicial to the formal review processes. Therefore at present, in the absence of any specific locational need for this residential development, there is no justification for approval that would represent a significant departure from the development 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 require to be referred to the Development Services Committee because it would be a significant departure from the development 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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APPLICATION BY MESSRS. J. & R. WILSON

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 an outline planning application which is to be considered by the Local Planning Committee under the scheme of delegation because the proposed development is contrary to policy, is the subject of objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site lies on the south side of the A76 New Cumnock – Kirkconnel Trunk Road some 235 metres east of the settlement boundary of New Cumnock. The site lies adjacent and to the west of Polquhirter Cottage, the residential property known as The Paddock and West Polquhirter Farm.

2.2 The site extends to approximately 0.6 hectare with the site gently sloping from west to east. The frontage of the site onto the A76 trunk road is demarcated in part by a drystone dyke and hawthorn hedging. A public footpath leading from Afton Bridgend in New Cumnock terminates at the western extremity of the application site. The application site forms part of the former Polquhirter Nurseries and was previously occupied by glasshouses and other land used for commercial market garden purposes.

2.3 The site is presently vacant and forms part of the landholding associated with Polquhirter Cottage. It appears to be managed in terms of its current condition, although no agricultural or market garden use is apparent on site. The remains of the foundations of the glasshouses and boiler houses are still evident on site.

2.4 **Proposed Development:** Outline planning permission is sought for the development of the site for residential purposes for five dwellinghouses. No details of the house types have been submitted at this stage although the

applicants state that the dwellings proposed will be sympathetic with the rural environment and are anticipated to be one and a half storey in height. However, the applicant has provided an indicative layout showing five dwellings in a small cul-de-sac arrangement with a single vehicular access point onto the A76 trunk road. The indicative layout is spacious and can comfortably accommodate the proposed dwellings.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Scottish Executive Trunk Roads Network Management Division has no objections to the proposed development but advises that the following conditions be attached to any consent:

(i) The proposed access shall join the trunk road at a new junction which shall be constructed by the applicant to a standard as described in the Design Manual for Roads and Bridges Volume 6 Section 2 Part 7 TD 41/95 complying with layout 3. The junction shall be constructed in accordance with details that shall be submitted to and approved by the Planning Authority, after consultation with the Roads Authority, before any part of the development is commenced. Reason – To minimise interference with the safety and free flow of traffic on the trunk road and to ensure the standard of access complies with current design standards.

(ii) Visibility splays shall be provided on each side of the access. These splays are the areas of ground defined by a line 4.5 metres (minimum) measured along the centreline of the access (the 'x' dimension) from the nearside edge of the trunk road; a line 215 metres (minimum) long measured along the nearside edge of the trunk road from the centreline of the access (the 'y' dimension) and a straight line joining the termination of these two lines. In a vertical plane nothing shall obscure visibility measured from the driver's eye height of between 1.05 metres and 2.0 metres positioned along the 'x' dimension to an object height of between 0.26 metres and 1.05 metres anywhere along the 'y' dimension. The applicant must liaise with the Trunk Road Operating Company regarding the repositioning of a countdown marker which obstructs visibility. Reason – To ensure that drivers of vehicles leaving the site are able to see and be seen by vehicles on the trunk road and can join the traffic stream safely.

(iii) The gradient of the access road shall not exceed 2% for a distance of 5 metres from the edge of the trunk road. Reason – To minimise the risk of exiting vehicles stalling or inadvertently rolling out onto the trunk road.

(iv) There shall be no drainage connections to the trunk road drainage system. Reason – To ensure the efficacy and integrity of the trunk road drainage system is not reduced.

Conditions could be attached to any consent granted for the proposed development to meet the requirements of the Trunk Roads Network Management Division.

3.2 East Ayrshire Roads and Transportation Division has no objection to the proposed development subject to conditions. Access to the site must be taken via internal roads that comply with the Roads Development Guide 1996 and will require construction consent from East Ayrshire Roads Division. This would cover details such as road widths, footways, road construction, street lighting, drainage, turning area etc. Off road parking spaces will be required for each dwellinghouse in line with the requirements of the Roads Development Guide 1996 with some additional visitor spaces provided. Each private driveway will require to be paved for a minimum distance of 2 metres from the rear of the footway/ edge of the public road carriageway to avoid overcarry of loose material onto the public road. Any garages must be set back a minimum of 6 metres from the rear of the footway. Any gates will require to open inwards away from the public road.

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

3.3 Scottish Water has no adverse comments to make on the proposed development.

Noted.

3.4 The Scottish Environment Protection Agency has indicated that provided the foul drainage from the site connects to a septic tank and total soakaway arrangement or mound system, designed and constructed in accordance with current codes of practice, SEPA has no objection to the proposal. SEPA understands that the proposal does not involve a discharge to a watercourse either directly or indirectly. Where feasible rainwater from the roof and driveways should be drained via SUDS.

A note can be attached to any consent granted for the proposed development advising the applicant to make early contact with SEPA with respect to the drainage of the site.

3.5 National Air Traffic Services (NATS) has no safeguarding objection to the proposed development.

Noted.

3.6 New Cumnock Community Council has no objections to the proposed development.

Noted.

3.7 Transco has no objections to the proposed development.

Noted.

4. REPRESENTATIONS

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

4.2 Should the development go ahead there will be an unacceptable increase in the volume of traffic from the main A76 Trunk Road using an entrance to and from Polquhirter Cottage. This will no doubt cause an increase in traffic noise, intrusion of privacy and may also raise issues of road safety.

The Scottish Executive Network Management Division has, subject to the imposition of appropriate conditions, not objected or raised any significant concerns regarding the proposed development either in terms of traffic volume or road safety. The proposed dwellinghouses would be served by a separate new vehicular access that would not interfere with the existing access serving the objectors' property. Further it is not considered that there would be any significant increase in traffic noise resulting from the proposed development since the objectors' property lies some 35metres from the nearest point of the indicative access road, whereas it lies only 21 metres from the A76 Trunk Road where traffic noise would be greater.

4.2 The proposed development may have a detrimental effect on the value of our property.

The perceived detrimental impact on the objectors' property is not a valid ground of objection to the proposed development and is not material to the determination of this application.

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). The application site relates to an area of land located in the Rural Diversification Area.

Ayrshire Joint Structure Plan

5.2 Policy G6 states that development proposals outwith settlements in the Rural Diversification Areas shall conform to the structure plan where the development:

- A comprises an acceptable form of residential development as defined by the local plan;
- B provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;
- C can be justified in terms of social and economic benefit to the community;
- D contributes to rural land diversification: or
- E provides for the operational needs of agriculture and forestry.

No significant justification for the proposed development has been made by the applicant in terms of the above criteria. The proposed development is therefore considered contrary to structure plan policy.

East Ayrshire Local Plan

5.3 Policy RES14 is supportive of small-scale residential developments within the identified Rural Diversification Area, in one of three stated circumstances:

- (i) the houses are required on a permanent basis for the categories of development detailed in Policy RES13 above; or

No supporting information has been submitted which would suggest that the house was required for categories of development detailed in policy RES 13.

- (ii) the proposed development would constitute a limited addition to an existing, clearly defined group of four or more houses not delineated by a formal settlement boundary, subject to a set of stated criteria being met as follows:

- any proposed expansion of such a housing group being limited to 50% of the total number of dwellings existing in that grouping as of 1 January 1999, up to a maximum of 4 new housing units, subject to the provision of Policies RES15 and 17 below;

The proposal does not constitute a limited addition to a clearly defined group of four or more dwellings, as there are only two houses in the existing grouping. It is proposed to create five new plots, which is greater than 50% of the existing group of dwellings.

- any development requiring to be appropriate in terms of design to the particular location in which it is proposed;

The application is in outline only.

- any development requiring to be sensitive to the design and layout of the existing settlement or group of buildings; and

Although the application is in outline only, the indicative plan submitted suggests that the proposed development could be acceptable in terms of layout and design and reflect the character of the locality.

- any development requiring to meet the standards required by all relevant public and statutory service providers.

No significant adverse issues have been raised that cannot be addressed through the imposition of appropriate conditions in any consent granted for the development.

- (iii) the proposed development constitutes very low density housing development, forming part of an integrated group of properties with a dual residential and workplace function supporting the rural economy as detailed in Policy RES18.

The above criterion is not applicable to this application.

The principle of the development is not considered acceptable in terms of Structure Plan policy G6 or in terms of adopted local plan policy RES 14. The proposal cannot therefore be supported 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, the representation received, the planning history of the site, Scottish Planning Policy, and the supporting statement by the applicants.

Consultation Responses

6.2 None of the consultation responses have raised any issues which would indicate that the application should be refused although a number of issues would require to be resolved. These could be addressed either through conditions or appropriate notes attached to any consent granted for the proposed development

Planning History

6.3 A previous application (Ref. No. 04/0374/OL) for outline consent for the erection of five dwellings on this site was withdrawn from consideration on 08 September 2004 following a recommendation of refusal from The Scottish Executive Trunk Roads Network Management Division for road safety reasons. The issues raised at that time have now been suitably addressed and the TRNMD does not object to the current revised application subject to appropriate conditions.

6.4 A revised outline application (Ref. No. 04/1066/OL) for the erection of five dwellings on the site was refused by the Southern Local Planning Committee on 28 January 2005 as the development was contrary to the development plan. The current application is essentially a re-submission of this previous application.

Scottish Planning Policy 3: Planning for Housing

6.5 SPP3 states that rural areas across Scotland face a range of economic and environmental circumstances. Many areas close to large towns and city regions experience pressure for various forms of development, and planning policy will be concerned with managing these pressures. For other rural areas, planning policy will be concerned with enabling growing communities to expand, as well as sustaining fragile and in some cases dispersed communities. Planning policies have traditionally sought to restrict the development of new houses in the countryside to maintain rural character and amenity and safeguard agricultural production. Where possible, most housing requirements should be met within or adjacent to existing settlements. This prevents the sprawl and coalescence of settlements, makes efficient use of existing infrastructure and public services and helps to conserve natural heritage and rural amenity. However, while environmental protection remains important in the context of sustainable development, the major changes taking place in farming and the rural economy mean that some aspects of policy on housing in the countryside need

adjustment. In some rural areas, particularly those categorised as intermediate and remote, new housing outwith existing settlements may have a part to play in economic regeneration and environmental renewal. In remote rural areas with substantial long-term depopulation, proactive planning measures to help increase the resident population could assist economic and social regeneration. A dispersed settlement pattern is already an established feature of the landscape and economy in crofting areas.

The East Ayrshire Local Plan has addressed the provisions of SPP3 though the introduction of specific residential development policies relating to the identified Rural Diversification Area and these policies seek to secure the aims of SPP3. The proposed development is however still contrary to the provisions of the development plan as described in section 5 above.

Scottish Planning Policy 15: Planning for Rural Development

6.6 This more recent policy document states that SPP3 remains the first point of reference on the general policy for housing. SPP15 advances policy in respect of small scale rural housing developments including clusters and groups in close proximity to settlements, replacement housing, plots on which to build individually designed houses, and holiday homes. The overall message is that there is considerable scope for allowing more housing developments of this nature and that this should be expressed in development plans, either as part of general settlement policy or as a separate sub-set on rural housing policy. In many rural areas there are small sites (e.g. sawmills and brickworks) which cease to be required for their original purpose where conversion to residential use would bring about a net environmental benefit.

At this time, the adopted East Ayrshire Local Plan remains the prime consideration in the determination of this application. Although the provisions of SPP15 will be taken into account in the forthcoming review of the EALP, the proposed development remains contrary to the development plan.

Supporting Statement By Applicants

6.7 The main points of support can be summarised as follows: The applicants' state that the objective is to build five dwellings on the site, two of which would be occupied by the applicants. The revenue generated from the sale of the other three plots would help build their own homes and refurbish the existing Polquhirter Cottage.

The proposed development cannot be justified in planning policy terms and certainly not on the basis of financing the applicants'

proposed dwellings or the refurbishment of an existing residential property.

6.8 The applicants' feel that there are material considerations in place which strengthen this re-application since the previous decision in January of this year. The issue of access and egress to and from the site have now been addressed with the Scottish Executive and Amey Highways. SEPA is in agreement in principle on the use of septic tanks and soakaway to deal with drainage of the site. The houses will be designed in such a way that they will be sympathetic to the rural area in which they would be located. The applicants have considered the scheme in terms of siting, design and visual impact.

It is accepted that the proposed development would meet with the requirements of service providers and this was not in any case a reason for refusal of the previous application. Similarly, the present application is in outline and it is accepted that the dwellinghouses proposed could meet the design requirements for new housing in the countryside. Again this was not a reason for refusal of the previous application and acceptance of these matters was acknowledged at the time of the previous application.

6.9 With the release of PAN 72: Housing in the Countryside and Scottish Planning Policy 15: Planning for Rural Development and PAN 73: Rural Diversification, the applicants' feel that the Council should take cognisance of these new policies and that it is not sufficient for the Council's Planning Authority to simply state that it is dealing with these issues in their current policies.

It is considered that the current policies within the approved Ayrshire Joint Structure Plan and the adopted East Ayrshire Local Plan already embrace many of the aspects of good planning practice promoted in Planning Advice Notes. With regard to SPP15 and the promotion of residential development in the countryside, it also states that the aim of SPP 15 is not to see small settlements increase in size to the extent that they lose their identity, nor to suburbanise the Scottish countryside or to erode the high quality of its environment. Rather, it is to ensure that planning policy regimes are put in place to accommodate selective, modest growth. Most development should be foreseen, agreed and programmed to reflect the local circumstances. It is in this context that the review of the East Ayrshire Local Plan will assess and identify, through formal processes, those sites which would ensure that the aims of SPP15 are delivered.

6.10 The applicants' have suggested that the redevelopment of the former Polquhirter nursery site will assist in the regeneration and diversification of the rural economy. The Council has an obligation in the less populated areas to

ensure a greater scope for more innovative planning policies (SPP15). The Council also has a responsibility to look for further advances in policy in respect of small scale rural housing developments including clusters and groups in close proximity to settlements, replacement housing, plots on which to build individual houses and holiday homes. In many rural areas there are small sites (e.g. sawmills and brickworks) or in the case of Polquhirter, a nursery, which cease to be required for their original purpose where conversion to residential use would bring about a net environmental benefit. (SPP3).

The East Ayrshire Local Plan has policies that support small scale residential developments in the identified Rural Diversification Area within which the application site is located, albeit that the current proposal does not meet the provisions of these policies. It is clear however that both SPP3 and SPP15 require the Council as Planning Authority to bring forward new planning policies to secure the aims of stabilising and revitalising the rural economy in Scotland. The review of the East Ayrshire Local Plan will require to take these matters into account but at this stage, the proposed development remains contrary to policy and is considered to be premature in that approval of this application would be prejudicial to formal review process.

6.11 The Council some 9/10 years ago chose to grant planning permission for the single dwelling at the Paddock at Polquhirter. Where is the consistency on the planning decision process? Surely this was contrary to local / structure plans at the time of determination.

The dwellinghouse to which the applicants' refer was approved under the policy provisions of the development plan in place at that time i.e. the approved Strathclyde Structure Plan and the adopted New Cumnock Local Plan. At that time there was a presumption in favour of single or small scale residential developments in the Remoter Rural Areas (Ref. No. CD/94/120/OPP).

6.12 Other brownfield development sites have successfully obtained planning consent for dwellings. A recent example of this is Connel Park. The site was not earmarked for housing in the local plan. Where is the consistency in the planning decision process?

Recent developments at Connel Park have been approved contrary to recommendations of refusal on planning policy grounds.

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 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 but it is considered that they are not of sufficient weight to justify a departure from policy in this case.

8.2 The application under consideration is for a residential development of five dwellings on a site within the Rural Diversification Area but no justification has been provided for the development in this rural area. It is accepted that this is a 'brownfield' site given the previous use as a nursery and market garden but with the exception of minor structures, the site has become more naturalised into the wider rural area in which it is located.

8.3 It is noted that there are no third party objections and given the removal of the previous recommendation of refusal by the TRNMD, there are no significant adverse comments from consultees. The indicative layout provided by the applicants shows that this is generally acceptable and can comfortably accommodate the proposed dwellings.

8.4 Notwithstanding the supporting statement provided by the applicant making specific reference to Planning Advice Notes and Scottish Planning Policy, it is considered that the proposed development is premature pending the formal review of the East Ayrshire Local Plan and approval of the development would be prejudicial to the formal review processes. Therefore at present, in the absence of any specific locational need for this residential development, there is no justification for approval that would represent a significant departure from the development 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 require to be referred to the Development Services Committee because it would be a significant departure from the development plan.

Alan Neish
Head of Planning, Development and Building Standards

16 November 2005
HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Letter of representation
5. Supporting Statement by Applicant
6. Adopted East Ayrshire Local Plan (2003).
7. Approved Ayrshire Joint Structure Plan (1999).
8. Previous applications 04/0374/OL and 04/1066/FL.

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

Implementation Officer: Dave Morris

Form TP24A

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 05/1059/OL

Location	Former Nursery Site, Polquhirter NEW CUMNOCK
Nature of Proposal:	Proposed redevelopment of brownfield site and erection of 5 dwellings
Name and Address of Applicant:	Messrs. J. & R. Wilson 9 Queensferry Square SANQUHAR DG4 6BY
Name and Address of Agent	Axiom Design Services 65 High Street SANQUHAR DG4 6DT

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

The above **OUTLINE** application should be refused for the following reason:-

1. The proposed development would constitute the erection of five new dwellings in the countryside without agricultural or other appropriate justification and contrary to the policy criteria relevant in respect of Policies RES13 and RES14 of the Adopted East Ayrshire Local Plan. The proposal would therefore not be in accordance with Policy G6 of the Approved Ayrshire Joint Structure Plan and Policies RES13 and RES14 of the Adopted East Ayrshire Local Plan.

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