

## EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 24 FEBRUARY 2006

**05/1178/FL: PROPOSED VARIATION OF CONDITION 2 OF PLANNING  
CONSENT 01/0276/FL TO INCREASE MAXIMUM NUMBER OF CHILDREN  
CATERED FOR IN NURSERY FROM 25 TO 40  
AT JACARANDA NURSERY, 11 EVERGREEN ESTATE, COALHALL**

**APPLICATION BY KAREN RIOZZI**

### EXECUTIVE SUMMARY SHEET

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Permission is sought for a variation to Condition 2 of planning consent 01/0276/FL for the operation of the nursery from the residential property. Condition 2 presently states:

*'Notwithstanding any details or information submitted as part of the application, the maximum number of children which shall be catered for within the proposed nursery shall be 25 during any one day.'*

1.2 The applicant now seeks a variation of the condition to allow an increase in the maximum number of children catered for during any one day to 40. Existing car parking arrangements provide for a total of 16 spaces and the proposal also provides for the formation of a new access ramp located around the existing drop off point/ turning area.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reason 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, however it is considered that the issues raised are not of sufficient weight to justify approval of the application.

3.2 It is recognised in this instance that the proposal will result in an increased service provision in the pre-five sector in terms of nursery education

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and that there are also likely benefits from the employment of additional staff to cater for the increased number of placements. It is further recognised that no formal objections have been received from either consultees or third parties.

3.3 Nonetheless, it is considered that the increased maximum number of placements proposed from 25 to 40 (i.e. a 60% increase) represents an unacceptable intensification of use of the residential property as a nursery and this is considered to have a significant detrimental impact on the character and amenity of the residential area at this location.

**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 KAREN RIOZZI**

**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 application which is to be considered by the Local Planning Committee under the scheme of delegation at the request of the Local Member and as the application is recommended for refusal.

**2. APPLICATION DETAILS**

2.1 **Site Description:** The application site is located within the Evergreen Estate residential development at Coalhall, near Drongan and relates to the large single storey dwellinghouse and its extensive garden grounds at 11 Evergreen Estate. The application site is bounded to the north, east and west by existing residential properties and to the south by a tree belt and the A70 Cumnock – Ayr Road.

2.2 Part of the dwellinghouse is also used as a children's nursery Monday to Friday between the hours of 0730 and 1830 to accommodate a maximum of 25 children. Planning consent for the nursery was granted on 07 September 2001 (Ref. No. 01/0276/FL).

2.3 **Proposed Development:** Permission is sought for a variation to Condition 2 of planning consent 01/0276/FL for the operation of the nursery from the residential property. Condition 2 presently states:

*'Notwithstanding any details or information submitted as part of the application, the maximum number of children which shall be catered for within the proposed nursery shall be 25 during any one day.'*

2.4 The applicant now seeks a variation of the condition to allow an increase in the maximum number of children catered for during any one day to 40. Existing car parking arrangements provide for a total of 16 spaces and the proposal also provides for the formation of a new access ramp located around the existing drop off point/ turning area.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Drongan Community Council has not responded to the consultation letter.

***Noted.***

3.2 The Scottish Environment Protection Agency states that there are no objections in principle to the proposed development from its point of view provided the drainage arrangements are to its satisfaction. In this regard the applicant should obtain written assurance from Scottish Water that the Sewerage Treatment Works has sufficient capacity to accommodate the extra foul drainage from the nursery. The car parking drainage should be kept separate from the foul drainage and should be discharged to a suitably designed SUDS.

***Scottish Water has not indicated any objections to the proposed development. Notes can be attached to any consent granted with respect to the use of SUDS for drainage of the car parking area.***

3.3 Scottish Water has no objections to the proposed development.

***Noted.***

3.4 East Ayrshire's Department of Education and Social Services (Early Years Service) states that it currently works in partnership with this nursery for the delivery of the pre-five curriculum. The Service would have no objection to the increase of the maximum number of children at any one time to 40. The nursery owner must also apply to the Care Commission.

***Noted.***

3.5 East Ayrshire's Environmental Health Division has no comments or objections to make on the proposal.

***Noted.***

3.6 East Ayrshire's Roads and Transportation Division has no objections subject to conditions as follows:

1. Parking level as indicated on the submitted drawing would be acceptable for the number of staff / children indicated.
2. Access to the proposed parking areas must be taken via dropped kerb standard access crossings to East Ayrshire Council standards and a road opening permit will be required for the work.
3. The driveways/parking areas shown must be hard paved (slabbed, block paved or tarred for a distance of 2 metres back from the rear of the adjacent footway to avoid overcarry of loose material onto the public road.

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

The Division also indicates that it is aware that there were issues raised regarding road safety on the initial application for the formation of the nursery at this site but is unaware of any subsequent complaints/ problems regarding the operation of the unit since its inception. At the site visit it was noted that stone from the driveway and access to the parking area are being dragged onto the adjacent footway and recommends that this issue is addressed by the applicant.

**Noted.**

#### **4. REPRESENTATIONS**

4.1 None.

**Noted.**

#### **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 within the structure plan that are 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;

***It is considered that the main use of the property remains as residential use.***

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

***The business, even in terms of the increased numbers, can be accommodated within the existing property.***

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

***In considering the original proposal for the Jacaranda Nursery, there was a significant level of objection received to the proposal on the grounds that this would impact significantly on the residential amenity of the Evergreen Estate. It was considered that a restriction in the maximum number of placements to 25 would enable the development to proceed without causing significant impact on adjacent residential properties. The current proposal to increase the maximum number of placements to 40 is considered to be significant and at a level such as to breach the spirit of Policy ENV11 which supports small business developments.***

***It is recognised that the nursery provides a much needed facility but this should not be to the detriment of the primarily residential area in which it is located. Furthermore, even in the absence of any objections to the proposed development, with a capacity of 40 children and a potential staff compliment of 10, the proposed increase is considered to be unacceptable in terms of impact on the residential amenity of the area.***

- (iv) that adequate car parking is provided to the standards of the Council as Roads Authority.

***The proposal, subject to the imposition of appropriate conditions, is acceptable to the Roads and Transportation Division.***

***It is considered that the proposed intensification of use of the nursery premises conflicts with Policy ENV11(iii).***

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

6.1 The principal material considerations relevant to the determination of the application are the consultation responses and the planning history of the site.

### **Consultations Responses**

6.2 The consultation responses do not indicate that the application should be refused.

## Planning History

6.3 Planning consent for the part change of use of the existing dwellinghouse to form a children's nursery was granted on 07 September 2001 (Ref. No. 01/0276/FL). This consent was granted subject to a number of conditions including a restriction on the number of placements at any one time to 25. A subsequent appeal against a condition restricting the hours of operation of the nursery was upheld on 04 February 2002. This allowed the operating hours indicated in Section 2.2 of the report.

## **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, however it is considered that the issues raised are not of sufficient weight to justify approval of the application.

8.2 It is recognised in this instance that the proposal will result in an increased service provision in the pre-five sector in terms of nursery education and that there are also likely benefits from the employment of additional staff to cater for the increased number of placements. It is further recognised that no formal objections have been received from either consultees or third parties.

8.3 Nonetheless, it is considered that the increased maximum number of placements proposed from 25 to 40 (i.e. a 60% increase) represents an unacceptable intensification of use of the residential property as a nursery and this is considered to have a significant detrimental impact on the character and amenity of the residential area at this location.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reason 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 represent a significant departure from the East Ayrshire Local Plan.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

08 February 2006  
HM/HM

## LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultation responses.
4. Adopted East Ayrshire Local Plan (2003)
5. Approved Ayrshire Joint Structure Plan (1999)
6. Previous application 01/0276/FL
7. Planning Appeal P/PPA/190/64

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

**Implementation Officer: Dave Morris**

Application no: 05/1178/FL

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Location	Jacaranda Nursery 11 Evergreen Estate, Coalhall
Nature of Proposal:	Proposed variation of condition 2 of planning consent 01/0276/FL to increase maximum number of children catered for in nursery from 25 to 40
Name and Address of Applicant:	Karen Riozzi 11 Evergreen Estate, Coalhall
Name and Address of Agent	Structural Partnership 142 West Nile Street, Glasgow

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DPO's Ref: [                    ]  
PPO's Ref; [Hugh Melvin ]

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

1. The proposed increase in number of placements at any one time within the nursery from 25 to 40 is considered to be an unacceptable intensification in the nursery use of the primarily residential property at 11 Evergreen Estate. It is considered that the proposal is therefore contrary to Policy ENV11(iii) of the adopted East Ayrshire Local Plan as the proposal will result in an unacceptable detrimental impact on the

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