

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 17 JUNE 2005

**05/0307/OL: PROPOSED CHANGE OF USE OF VACANT GROUND TO
CONTRACTOR'S YARD AND ERECTION OF A DWELLINGHOUSE
AT MUIRKIRK ROAD, LUGAR**

APPLICATION BY MR. ANDREW MCLEAN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline permission is sought for the change of use of the site from agricultural use to commercial use for the formation of a contractor's yard. The indicative layout plan submitted by the applicant shows the proposed yard taking up the greater part of the application site adjacent to the junction of the A70 road with the access road to Holmhead Farm. The plan shows the provision of a garage /shed building to accommodate the applicant's business that currently operates from a site within Mauchline. The applicant operates a roads and utilities contracting business from the site in Mauchline.

1.2 The application also seeks permission in outline for the erection of a dwellinghouse on the southern part of the application site which the applicant indicates is required in the interests of the security of the proposed yard and shed. The applicant has submitted a statement in support of his application that is referred to in section 6 of this report.

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 not considered that these are of sufficient weight to justify a departure from policy in this case.

3.2 The proposed development is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. It is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a detrimental visual impact on the surrounding area.

3.3 There are no significant issues raised by consultees and no third party representations have been received with regard to the proposals. While the present circumstances of the applicant are appreciated, it is considered that these are not of sufficient weight to justify approval contrary to policy.

CONTRARY DECISION NOTE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards, the application will require to be referred to the Development Services Committee as it would represent a significant departure from policy.

Alan Neish
Head of Planning, Development and Building Standards

Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.

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05/0307/OL: PROPOSED CHANGE OF USE OF VACANT GROUND TO CONTRACTOR'S YARD AND ERECTION OF A DWELLINGHOUSE AT MUIRKIRK ROAD, LUGAR

APPLICATION BY MR. ANDREW MCLEAN

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 as the proposed development is contrary to policy, is the subject of representations and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is located on the south side of the A70 Muirkirk Road on the outskirts of Lugar and on the east side of the access road to Holmhead Farm. The site is located some 80 metres south of the junction of Muirkirk Road with Thornwood Drive in Lugar. The site extends to 0.2 hectare and is bounded to the north by Muirkirk Road, by the Lugar Water to the east by the access road to Holmhead Farm and agricultural land to the west and by scrubland to the south.

2.2 The site is relatively level and there are a number of trees located on the boundary of the site with the Lugar Water. The site comprises an area of scrubland that is partly overgrown and is from time to time used for the storage of agricultural waste, dung and silage.

2.3 The site has the appearance of wasteland and as such detracts from the general amenity of the area, although the site is part of an area of ancient woodland.

2.4 **Proposed Development:** Outline permission is sought for the change of use of the site from agricultural use to commercial use for the formation of a contractor's yard. The indicative layout plan submitted by the applicant shows the proposed yard taking up the greater part of the application site adjacent to the junction of the A70 road with the access road to Holmhead Farm. The plan shows the provision of a garage /shed building to accommodate the applicant's

business that currently operates from a site within Mauchline. The applicant operates a roads and utilities contracting business from the site in Mauchline.

2.5 The application also seeks permission in outline for the erection of a dwellinghouse on the southern part of the application site which the applicant indicates is required in the interests of the security of the proposed yard and shed. The applicant has submitted a statement in support of his application that is referred to in section 6 of this report.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division (Flooding Section) has indicated that although the SEPA flood inundation mapping indicates that this site may be susceptible to flooding in a 1 in 1000 year event, the scale of the proposed development does not justify the submission of a full flood risk assessment. The applicant must ensure the development complies with the requirements of SPP7 in relation to development on functional flood plains and associated compensatory storage measures. It will be necessary to provide detailed cross sections of the site and the opposite bank to assess the implications for the site in a 1 in 200 year flood event. The design of the buildings must give careful consideration to finished floor levels, position for air vents and the use of water resistant materials. The developer will also require to consider the consequences of the possible blockage of the river channel at the sewer crossing and the flooding implications for the site with regard to the flow path of any flood waters.

Noted. It is considered that should the Committee be minded to approve this application, a suspensive condition should be imposed requiring the applicant to submit appropriate information to address the issue of flood risk prior to the commencement of any works on site.

3.2 Scottish Water has no objections to the proposed development.

Noted.

3.3 The Scottish Environment Protection Agency has no objections in principle to the proposals provided that the drainage arrangements are to its satisfaction. All foul drainage from the development must be connected to the public sewerage system in accordance with Scottish Water requirements. The development must not entail the use of dual manholes for connections to the existing sewage system, either in the public sewers or within the curtilage of the development. SEPA would seek a condition requiring the applicant to obtain assurance from Scottish Water that the additional foul drainage arising from this development will not cause or contribute to premature operation of downstream

consented storm sewer overflows. SEPA requests a condition requiring the applicant to install a surface water treatment system designed and constructed in accordance with the principles of the Sustainable Urban Drainage Systems Design Manual for Scotland and Northern Ireland. Soils in this area may not be suitable for infiltration systems and therefore surface treatment structures may be more appropriate. All waste materials generated by this development that require to be removed such as construction, demolition materials and surplus excavated material, 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.

Appropriate conditions and notes can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

3.4 Power Systems has no objections to the proposed development.

Noted.

3.5 Transco has no objections to the proposed development.

Noted.

3.6 East Ayrshire Council Outdoor Amenities Section has no objections to the proposed development. Any land held in Neighbourhood Services Account damaged by the proposed development should be re-instated to the satisfaction of this Section.

Noted.

3.7 Lugar and Logan Community Council has stated that although it welcomes new businesses into the area, it has some concerns considering Lugar is a conservation village. The main concern is that of screening around the proposed yard. For the owner's security and in keeping with the conservation area, the Community Council would like to see some sort of environmentally friendly screenings put up if the proposed plan was to go ahead. The other concern is that of what might be stored in the yard that might cause problems if it was to get into the nearby river.

It is considered that the establishment of a yard and shed at this prominent location on the approach to Lugar, whilst not located within Lugar Conservation Area, could have a detrimental impact on the visual amenity of the area. It is accepted however that the present condition of the site and its current use is in itself visually unattractive.

It is considered that should the development be approved, appropriate conditions could be attached to any consent to provide a degree of screen planting to minimise the visual impact of the yard and proposed shed.

The operation of the yard would include the storage of material used in the applicant's business including vehicles. Appropriate conditions could be attached to any consent granted to ensure appropriate safeguards are implemented to prevent contamination of the watercourse.

3.8 East Ayrshire Roads and Transportation Division has no objections to the proposed development subject to the following conditions:

1. Visibility splay areas of 2.5 metres by 160 metres to the east and 2.5 metres by 215 metres to the west will require to be formed and maintained at the junction of the private access with the A70 road with no object greater than 1 metre in height allowed within these areas. This will require the applicant to enter into a Section 75 Agreement with the adjacent landowners. Junction visibilities are required to be formed prior to any works commencing on site.
2. No surface water must be allowed to discharge onto the existing public road.
3. A minimum of 3 off road parking spaces shall require to be provided within the development.
4. Any garages must be set back a minimum distance of 6 metres from the edge of the public road.
5. The private access will require to be paved for a minimum distance of 10 metres from the edge of the public road carriageway to avoid the over carry of loose material onto the public road.
6. The applicant will require to form a bin storage area adjacent to the A70.
7. Any gates will require to open inwards, away from the public road.
8. Access to and egress from the site will require to be taken in forward gear.

Conditions can be attached to any consent granted to meet the requirements of the Roads and Transportation Division. A Section 75 Agreement can be used to secure appropriate sightline visibility splay areas.

3.9 West of Scotland Archaeology Service has no adverse comments to make on the proposed development.

Noted.

4. REPRESENTATIONS

4.1 Apart from the representations made by Lugar and Logan Community Council, no other representations have been received regarding the proposed development.

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 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;

The applicant has provided no justification for the proposed contractors yard and house to be located outwith the settlement boundary of Lugar.

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

The proposed development cannot be justified in terms of social and economic benefit to the community although the applicant has indicated that his business is expanding and may create further employment opportunities.

C contributes to rural land diversification: or

It is considered that the proposal would not contribute to rural land diversification.

D provides for the operational needs of agriculture and forestry.

The proposal would not provide for the operational needs of agriculture or forestry.

The proposal is therefore contrary to Policy G5 of the approved structure plan.

East Ayrshire Local Plan

5.3 The business/industrial element of the proposal requires to be assessed against policy IND 10 of the East Ayrshire Local Plan as the site is located outwith the settlement boundary of Lugar. Policy IND10 states that industrial and business development outwith settlement boundaries will be acceptable to the Council only where the proposal relates to one of five stated types of development.

(i) Category 1 and 2 business and industrial sites and those Miscellaneous Development Opportunity sites with potential for industrial or business development, as indicated on the Local Plan Rural Area Map;

The proposed site is not an identified development opportunity site.

(ii) Sympathetic industrial and business developments associated with the traditional activities of agriculture and forestry;

A contractor's yard is not associated with agriculture or forestry.

(iii) Sympathetic industrial and business developments related to appropriate rural activities such as small scale craft industries and leisure, recreation and tourism developments;

The proposed business is not related to rural activities.

(iv) Rail freight based industrial uses at existing coal disposal points; or

A contractor's yard is not a rail freight based industrial use.

(v) Sensitive industrial and business developments with a clearly demonstrated site specific locational need to be located within the Rural Diversification Area.

The proposed business is not a sensitive industrial development and the site is not located within the Rural Diversification Area.

It is considered that the proposed contractor's yard meets none of the above criteria and is therefore contrary to policy IND 10.

5.4 The residential element of the proposal requires to be assessed against policy RES 13. Policy RES13 is supportive of residential development of houses

in the Rural Protection Area only where it can be demonstrated that the houses are required on a permanent basis for one of four stated purposes.

(i) for a full time agricultural or forestry worker employed directly on the land to which the proposed house relates;

The house is not required for a full time agricultural or forestry worker.

(ii) for a worker employed by a rural enterprise or a tourism related activity and where the requirement for that worker to live on the site is essential to the economic operation of the activity concerned;

A contractor's yard is not considered to be a rural enterprise and it is not a tourism related activity. A worker living on the site of a contractor's yard is not considered necessary for its economic operation.

(iii) as an essential and integral part of an authorised proposal which necessitates the provision of on-site staff accommodation; or

This is not applicable to the proposed development.

(iv) as an enabling development for the conversion of a large rural residential or institutional property, as detailed in Policy RES8 above.

This is not applicable to the proposed development.

The policy also states that developments for which a site specific locational need cannot be demonstrated to the satisfaction of the Council will not receive Council support.

It is considered that a house connected to a contractor's yard does not fall within any of the above categories of development. The residential element of the proposal is contrary to policy RES 13.

5.5 Policy ENV10 states that the protection and enhancement of areas of nature conservation interest within the Local Plan area will be achieved by five stated means. One of these is pertinent to the application as follows:

(iii) development likely to adversely affect local nature reserves and provisional wildlife sites will be resisted and all sites of recognised nature conservation value will be safeguarded whenever possible. Where development is approved for such sites, appropriate measures should be taken to conserve and manage, as far as possible, the sites' biological or geological interest and to provide for replacement habitats or features where damage is unavoidable;

The application is in outline only at this stage and the potential impact on the Provisional Wildlife Site cannot be fully assessed at this stage.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

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

Consultations Responses

6.2 There are no consultation responses that would suggest that permission should be withheld, although as in relation to issues of flood risk, conditions would need to address specific concerns. It is considered that the representations received from the Community Council could to some extent be addressed through the imposition of appropriate conditions in any consent granted for the proposed development.

Supporting Statement

6.3 The applicant states that at present his site in Mauchline has no security and there have been numerous break-ins that have been reported as recently as 14 February 2005. The existing yard has very restricted access and deliveries have to be made before 8 am and after 5:30 pm which is not really suitable as deliveries are required during business hours. The reason for the dwelling house is for security purposes. I have been in business for some 10 years and owing to success, I now need to expand and take on further employees who will be from the Cumnock area.

Notwithstanding the comments and circumstances of the applicant, the proposal is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. It is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a detrimental visual impact on the surrounding area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial and legal implications for the Council in the determination of this application.

Noted.

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 not considered that these are of sufficient weight to justify a departure from policy in this case.

8.2 The proposed development is located outwith the settlement boundary of Lugar on a visually prominent site. The principle of both a contractor's yard and a dwelling house are not acceptable in planning policy terms. It is considered that such a development would be best located within a settlement on a site less prominent and less likely to have a detrimental visual impact on the surrounding area.

8.3 There are no significant issues raised by consultees and no third party representations have been received with regard to the proposals. While the present circumstances of the applicant are appreciated, it is considered that these are not of sufficient weight to justify approval contrary to policy.

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 as it would represent a significant departure from policy.

Alan Neish

Head of Planning, Development and Building Standards

HM/H/SMB
05 June 2005
FV/DVM

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. Supporting Statement.

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: 05/0307/OL

Location	Muirkirk Road LUGAR
Nature of Proposal:	Proposed change of use of vacant ground to contractor's yard and erection of dwellinghouse.
Name and Address of Applicant:	Mr Andrew McLean Muirkirk Road LUGAR
Name and Address of Agent	Mr Douglas Cree 72 Oswald Road AYR

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

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

1. The proposed development represents the use of a prominent area of land located outwith the established settlement boundary of Lugar for commercial and residential purposes for which there is no site specific locational need or justification. The proposal is therefore contrary to Policy G5 of the approved Ayrshire Joint Structure Plan and Policies IND10 and RES14 of the adopted East Ayrshire Local Plan.
2. It is considered that the proposed development would have a detrimental impact on the visual amenity of the rural area and this prominent location on the approach to Lugar village.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**