

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 05 NOVEMBER 2004

04/0379/OL: DEVELOPMENT OF LOW IMPACT (LOWLAND CROFTING) HOUSING AND RECREATION CABINS, ACCESS AND ADDITIONAL PLANTING AT GLENBUCK HOME AND WEST GLENBUCK FARMS, GLENBUCK

APPLICATION BY THE SCOTTISH COAL COMPANY LIMITED

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Outline planning permission is sought for the development of low impact housing (lowland crofting) and the erection of recreation cabins within the application site. The information provided by the applicant proposes the establishment of two development zones within the application site.

1.2 The Phase 1 Development Zone lies on the east side of the Glenbuck Road and extends to some 14 hectares and relates to the Glenbuck woodland policies which contain the Glenbuck Home Farm and steadings and two existing lodges. The site of the former Glenbuck House also lies within the Phase 1 zone lying close to the Glenbuck Loch itself. It is proposed to develop six low impact house plots and erect three recreational cabins within this zone. The development will also involve the provision of access tracks to serve the proposed house plots and the recreational cabins. The house plots will each be no less than 1 hectare in size and will generally lie to the east and south of the existing Glenbuck Home Farm.

1.3 The proposed three cabin structures are to be used as tourist accommodation and although no details of the structures have been submitted at this stage, indicative information provided by the applicant suggests that these will be of timber construction and of a design suited to the rural location in which they will be situated.

1.4 The Phase 2 Development Zone lies on the west side of the Glenbuck Road and extends to 7.2 hectares and relates to the West Glenbuck Farm and steading. At this stage, this area will continue to function as an agricultural unit with no specific development proposals to be implemented under this application. The applicant has indicated that further low impact housing could be developed within this area depending on the success of the Phase 1 development.

1.5 As part of the development of the low impact housing scheme, the proposal provides for the management and enhancement of the woodland areas associate with the application site. Within the Phase 1 development Zone, woodland extends to around 45% of the land cover. In terms of both the

Phase1 and Phase 2 Development Zones, the woodland cover equates to some 30% of the land cover. As part of the supporting information, the applicant has provided a woodland condition survey and it is anticipated that as part of the proposed development, this would lead to the production of a woodland management plan for the application site.

1.6 Access to the site is from the A70 Muirkirk – Douglas Road and this would be used to serve the Phase 1 development. This will utilise an upgraded access in to the phase 1 area, to adoptable standards, then linking on to newly constructed and privately maintained hardcore tracks to the individual plots. A bin store area will be provided at the new entrance as a sole collection point for the proposed development.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant, in respect of the matters described in Section 8.4 of this report.

3. CONCLUSIONS

3.1 As indicated in Section 5 of the report, the proposed development is considered to be in accordance with the Development Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6, there are material considerations relevant to this application, but in this regard, these can either be addressed through obligations in a Section 75 Agreement or by means of planning conditions, or are not of sufficient weight to set aside the provisions of the development plan.

3.2 The proposed development represents a significant opportunity to revitalise the rural economy within the identified rural diversification area and promote tourism related development within the environs of Glenbuck Loch. The proposed development will also result in the management of significant areas of woodland, together with additional woodland provision, for the benefit of nature and habitat conservation.

3.3 It is recognised that careful controls will require to be exercised in relation to ensuring that the development meets with the principles of low density housing (lowland crofting) as indicated with the EALP, but this can be secured through a Section 75 Agreement with the applicant. This is particularly important in relation to securing business uses associated with the proposed dwellings appropriate to this rural location.

3.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are environmental and community benefits to be derived from the proposals. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 has been concluded with the applicant in respect of the following matters:

- (i) The linking of the residential element of the development with an integrated business or workplace function appropriate to the rural location of the development, such that crofting units shall only be occupied by individuals employed full time in the associated and integrated business activity. Appropriate rural businesses shall be the subject of discussion and agreement between the applicant and the Planning Authority.
- (ii) The production of a Woodland Management Plan for the site that shall include the following:
 - A habitat survey of the woodland areas to ensure that appropriate assessment of the impact of management on flora and fauna is undertaken.
 - The provision of additional woodland areas, particularly within the Phase 2 Development Zone;
 - The inclusion of the woodland areas to the west of the application site within the Management Plan.
 - Details of the programme of works including timing and timescale of the plan.
- (iii) The submission of a Design Brief in respect of the proposed lowland dwellings and any ancillary buildings associated with the business uses to be undertaken on each plot.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards in terms of the principle of the proposed development, the application will require to be referred to the Development Services Committee for determination as such a decision would be a significant departure from Council 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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APPLICATION BY THE SCOTTISH COAL COMPANY LIMITED

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 of area significance and is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site lies generally to the north of Glenbuck Loch, approximately 5 kilometres east of Muirkirk and approximately 50 metres north of the junction of the A70 Muirkirk – Douglas Road with the C38 Glenbuck Road. The application site extends to some 62.4 hectares comprising the lands of West Glenbuck and Glenbuck Home Farms. The application site rises in a northerly direction to plateau areas before continuing to rise again to the north to the Spireslack opencast coal site and its site establishment area. The application site contains approximately 10.3 hectares of established woodland

2.2 **Proposed Development:** Outline planning permission is sought for the development of low impact housing (lowland crofting) and the erection of recreation cabins within the application site. The information provided by the applicant proposes the establishment of two development zones within the application site.

2.3 The Phase 1 Development Zone lies on the east side of the Glenbuck Road and extends to some 14 hectares and relates to the Glenbuck woodland policies which contain the Glenbuck Home Farm and steadings and two existing lodges. The site of the former Glenbuck House also lies within the Phase 1 zone lying close to the Glenbuck Loch itself. It is proposed to develop six low impact house plots and erect three recreational cabins within this zone. The development will also involve the provision of access tracks to serve the proposed house plots and the recreational cabins. The house plots will each be no less than 1 hectare in size and will generally lie to the east and south of the existing Glenbuck Home Farm.

2.4 The proposed three cabin structures are to be used as tourist accommodation and although no details of the structures have been submitted at this stage, indicative information provided by the applicant suggests that these will be of timber construction and of a design suited to the rural location in which they will be situated.

2.5 The Phase 2 Development Zone lies on the west side of the Glenbuck Road and extends to 7.2 hectares and relates to the West Glenbuck Farm and steading. At this stage, this area will continue to function as an agricultural unit with no specific development proposals to be implemented under this application. The applicant has indicated that further low impact housing could be developed within this area depending on the success of the Phase 1 development.

2.6 As part of the development of the low impact housing scheme, the proposal provides for the management and enhancement of the woodland areas associate with the application site. Within the Phase 1 development Zone, woodland extends to around 45% of the land cover. In terms of both the Phase1 and Phase 2 Development Zones, the woodland cover equates to some 30% of the land cover. As part of the supporting information, the applicant has provided a woodland condition survey and it is anticipated that as part of the proposed development, this would lead to the production of a woodland management plan for the application site.

2.7 Access to the site is from the A70 Muirkirk – Douglas Road and this would be used to serve the Phase 1 development. This will utilise an upgraded access in to the phase 1 area, to adoptable standards, then linking on to newly constructed and privately maintained hardcore tracks to the individual plots. A bin store area will be provided at the new entrance as a sole collection point for the proposed development.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Roads and Transportation Division states that it has no objections to the proposed development subject to the following conditions:

- (i) The applicant will require to upgrade the existing access road from the Glenbuck public road to an adoptable standard with enlarged turning area to EAC standards incorporating passing places, road drainage, structural overlay etc. This section of road will be eligible for adoption as part of the rural public road system.
- (ii) The existing structure beneath the private road will require to be assessed and any repairs/ upgrading required to bring the structure up to a public road standard will be at the expense of the developer.
- (iii) Access to individual properties will be via private accesses off the adoptable section of public road (only two properties will be allowed via a single private access) which would require to be of sufficient

- dimension and construction to be capable of catering for emergency vehicles. Maintenance responsibility would rest with the owners.
- (iv) Visibility improvements will be required at the access point onto the Glenbuck Road and changes to the priority/road layout will require to be agreed and funded by the developer.
 - (v) Bin uplift storage areas will be required adjacent to the turning area.
 - (vi) No surface water from the individual driveways must be allowed to discharge onto the proposed public road.
 - (vii) A minimum of 3 off-road car parking spaces will require to be provided within each individual plot.
 - (viii) Access to the holiday cabins will require to be taken off the turning area with all associated car parking (2 per cabin) contained within the cabins site. This access and parking area will not be eligible for adoption.

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

The Division further states that at this time there are no guidelines within Roads Policy to deal with lowland crofts and holiday cottage schemes. Current policy has therefore been applied with regard to numbers of individual houses accessing off private roads with the proviso that the policy will be reviewed with a report being prepared to be submitted to the Development Services Committee regarding future policy in relation to developments of this nature. The developer will require to further discuss the proposals with the Division if the application is to be developed to the detailed stage.

Noted.

3.2 Muirkirk Community Council has indicated that it is supportive of the proposed development.

Noted.

3.3 East Ayrshire Outdoor Amenities Section has no objections to the proposed development.

Noted.

3.4 The Scottish Environment Protection Agency states that it has no objections in principle to the proposals provided the drainage arrangements are to its satisfaction. In view of the absence of a watercourse suitable for the acceptance of septic tank effluent, it is recommended that a sub-soil soakaway system be used for effluent disposal. The septic tank and blind soakaway must be designed and constructed in accordance with the current code of practice. This will require the applicant to carry out percolation testing onsite to assess the suitability of the sub-soil for effluent disposal. If the ground conditions prove unsuited to this method of effluent disposal then SEPA would consider a consent application for a discharge of fully biologically

treated sewage effluent to a burn. Surface water must be excluded from the septic tank to minimise the amount of drainage being treated and should be discharged to the burn via a suitably designed SUD system, such as a filter trench or french drain. Surface water from car parking areas should also be discharged via suitable SUDS. Tree planting should be carried out in line with the Forest and Waters Guidelines. All waste materials generated by this development that require to be removed such as construction, demolition wastes 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.

Conditions can be attached to any consent granted for the proposed development to meet the requirements of SEPA.

3.5 Power Systems has no objections to the proposed development.

Noted.

3.6 The Scottish Wildlife Trust has not responded to the consultation letter.

Noted.

3.7 Scottish Natural Heritage has no objections to the proposal and states that there are natural heritage interests of international and national importance in close proximity to this location. The proposed development is unlikely to threaten those interests. SNH states that the proposed development site lies within 0.5 km from the boundary of the Muirkirk and North Lowther Uplands Site of Special Scientific Interest (SSSI) and potential Special Protection Area (pSPA). It is also close to the Ree Burn and Glenbuck Loch SSSI which is of geological interest.

Noted.

The site's proximity to a pSPA under the EC Directive 79/409/EEC on the conservation of wild birds (The Birds Directive) means that the provisions of Scottish Office Circular 6/1995 apply. This sets out the obligations of the EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna (The Habitats Directive) which applies a common protection regime to all European sites such that "any plan or project likely to have a significant effect on a European site and which is not directly connected with or necessary to the management of that site must undergo an appropriate assessment as required by Article 6.3 of the Directive."

Noted

Under Regulation 48, East Ayrshire Council, as competent authority has a duty to determine whether the proposal is directly connected with or necessary to site management for conservation and if not, determine whether the proposal is likely to have a significant effect on the site individually or in

combination with other plans or projects and if so, then make an appropriate assessment of the implications of the proposals for the site in view of that site's conservation interests. The competent authority can agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, the proposal can only be allowed to proceed if there are imperative reasons of over-riding public interest which can include those of a social or economic nature.

The Council as competent authority is of the view that the proposed development is not directly connected with or necessary to site management for conservation of the pSPA. Given that the pSPA extends to over 27,000 hectares and the proposed development does not directly impinge on the pSPA or SSSI, it is considered that it will not significantly adversely affect the integrity of the pSPA.

SNH's advice to the Council is that the proposal is not directly connected with or necessary to site management for conservation. However, SNH considers that it is likely that no qualifying features will be affected significantly either directly or indirectly and an appropriate assessment is therefore not required.

Noted.

SNH further states that the area around Glenbuck, although affected by mineral extraction, still retains landscape and local biodiversity interest and makes the following points:

(i) SNH does not believe the development has any implications for the geological SSSI.

Noted.

(ii) In terms of sustainable land use, it appears unnecessary to allow this development to proceed on what is a greenfield site used as agricultural land when the adjoining opencast is nearing the end of its life. It would appear to be preferable for the applicant to work with the Council to restore the former community of Glenbuck on nearby land forming part of the opencast area subject to the protection of adjoining wildlife interests on the SPA.

The proposal relates to the development of low density residential development in the Rural Diversification Area relating to the existing farms at Glenbuck Home and West Glenbuck Farms. The intention is to promote suitable farm diversification and compliance with policy requires diversification of these existing units. The application requires to be determined on its merit and notwithstanding these comments, SNH has not offered any objection to the proposed development.

(iii) SNH understands that a new access road is proposed to service the opencast mine. This is planned to exit the A70 at Spireslack quarry and go

over an unexcavated area of sloping ground above the road. The road appears to be an unnecessary development at such a late stage in the life of the opencast mine and will further diminish the landscape quality of Glenbuck.

The supporting information provided by the applicant makes reference to a new access road to serve the Spireslack opencast coal site. This does not form part of the current planning proposals. Any future proposal of this nature would require to be the subject of a formal planning application and be subject to appropriate assessment.

(iv) Catcraig Quarry is understood to be of some local biodiversity interest. SNH advises that a planning condition should be put in place to ensure that the area is investigated prior to construction of the proposed road. Should it be shown to be of interest to wildlife SNH would advise that the entrance for the proposed road should avoid this area.

As indicated above the proposed road does not form part of this application and the Catcraig Quarry will not be affected by the proposed development.

4. REPRESENTATIONS

4.1 Two letters of objection have been received with respect to the proposed development from three signatories. One of the letters of objection does not state any particular grounds on which the objection is made. The main points of objection are summarised as follows:

4.2 The objectors raise lengthy and numerous points of objection regarding the proposed new access road and how this will have significant impact on the landscape, particularly when viewed from their property. They raise issues regarding the potential use of this new road by vehicles associated with the Spireslack opencast site and the fact that it plays no role whatsoever in the proposed housing plan or threatens its viability.

The supporting information makes reference to a potential for a new access road from the A70 to serve the Spireslack opencast coal site. However this does not form part of the proposals within the current planning application. Such a proposal would require to be the subject of a formal planning application. The objectors have been advised of this matter and that this part of the objection is not material to the determination of this present application.

4.3 We do not object to the ideas behind the proposal but to the fact that the whole of this development (minus the cabins) is targeted high up on the hillside on virgin 'green' agricultural land. This is all within a few hundred yards of several square miles of degraded 'brown' land created by the applicant's coal extraction and of course the site of old Glenbuck – in

contradiction to the preference to use degraded /derelict land in the Local Plan.

The proposed development relates to the diversification of the existing farms central to the planning application site. The proposed development is considered to be in accordance with the policies of the East Ayrshire Local Plan (EALP) relating to the Rural Diversification Area as indicated in Section 5 below. The opencast operations at Spireslack are ongoing and it would be inappropriate at this stage in the life of that development to site new dwellings in close proximity to these operations.

4.4 Although the site is partly screened it is also admitted to be in open fields very high up and will be partly visible, especially at night. We object to the arrival and use of outdoor lighting associated with the arrival of a dozen buildings and homes in either phase. To address our objection we ask that if any houses or buildings are locally built anywhere in this or future phases we ask the Council to rigorously ensure that no damage to the night sky is caused by streetlights, automatic house security lights or similar to be permitted to point out of or up from any premises on site.

It is considered that the issue of light pollution within rural areas is a salient issue, but given the scale and nature of the proposed development it is unlikely that there will be any specific requirement within the development zone to provide street lighting. It is not considered that individual security lighting for the proposed dwellings will raise any significant light pollution impact, especially within the Phase 1 Development Zone given the extent of tree cover in this area.

4.5 We object to the indicative placement of Croft 2 because the Home Farm steadings above it are highly attractive buildings and the vista from and of them will be interfered with by such a placement. It will also diminish the quality of life and privacy of the existing cottage immediately below it.

The present application is in outline only, although the supporting information provide by the applicant includes an indicative site layout which is generally considered to be largely acceptable particularly in relation to Policy RES18 of the EALP as described in Section 5 below. The siting of the proposed dwellings will be the subject of a Reserved Matters application.

4.6 We ask the Council to ensure that the mistakes made in the earlier lowland crofting plan notably in West Lothian where what the media call 'Ranch Ponderosa's' exist. Here 2 storey kit houses with no environmental or local vernacular integrity have appeared. The high value workplace components inherent in the crafting spin have turned into three garage paved forecourts with private street lights. Some strict control over the type of house to be built would seem necessary.

The proposed development, if approved, will require to be the subject of a Section 75 Agreement with the applicant, and be subject to conditions to ensure that the proposed dwellings are linked to the provision of a rural business or rural enterprise in terms of Policy RES18 of the EALP, and that the style, design and use of finishing material in the proposed dwellings meet with the Council's Design Guidance for New Dwellings in the Countryside.

4.7 We emphatically object to the idea that a dispensation is given re tree planting in Phase 2 due to 'a shortfall in the 30% policy requirement for woodland'. The relaxation is specifically requested in regard to Phase 2, the area of development most visible /important to us. Some limited new planting is indicated to screen one house from another and elsewhere it is mentioned in the indicative woodland recommendations. In view of this vagueness and the lack of past commitment and action we ask the Council to deny the request for any relaxation in the 30% policy requirement for woodland and nature conservation.

The total area of woodland within the planning application site equates to some 16.5 % of the site. This is some 13.5% short of the requirement stated within Policy RES18 of the EALP. However, the application promotes two development zones within which the total woodland area equates to just over 30% of the development area of 21.2 hectares. Within the Phase 1 Development Zone, the woodland area covers some 45% of the site. It is considered that insofar as the current application is concerned, the proposals are consistent with policy. However, it is considered that additional planting should be provided as part of this application to redress the overall shortfall of woodland area within the whole site and should be secured through a Woodland Management Plan for the site.

4.8 We further object that the most visible and distinct policy woodlands owned by the applicant are excluded from their statement. We feel that these distinct woods are probably the most beautiful visible features above West Glenbuck by most travellers going east on the A70. We ask that the applicant incorporates all policy woodlands into the proposal in pursuit of a holistic landscape improvement scheme.

Although not forming part of the planning application site, it is considered that the two areas of woodland identified by the objector should be included in any Woodland Management Plan and this can be secured by means of a Section 75 Agreement.

4.9 The importance and sensitivity of the Stottencleugh Burn compartment is not noted in the present statement. A rather basic management approach is recommended which we presently feel does not reflect the vital importance to this local ecosystem and the species dependent on it. The presence of homes might mean the applicant will ban all shooting in this development or it might be something the Council would wish to rule on at this stage by requiring no

shooting signs to be erected at relevant points. When newcomers to the countryside arrive, hunting and shooting etc are taken as the norm, it is hoped that no such practices will be allowed in this species rich area. A hunting/shooting ban would be most sensible and prevent any future confusion by the public in this beauty spot. There is bird interest in this area and care will require to be exercised to avoid disturbing these important species.

It is considered that there may be merit in the suggestions of the objector but that such measures would be more appropriately addressed by the applicant through conditions in any sale of the dwellings within the development site.

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

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;

In principle, the low density “lowland crofting” element of the application is acceptable subject to it meeting with the criteria set out in policy RES 18 of the East Ayrshire Local Plan. It would be appropriate by means of a legal agreement to ensure that any dwellings approved on the basis of lowland crofting were occupied only by individuals employed full time in the business activity integrated into each respective dwelling.

B provides for sensitive industrial, business, recreational or tourism development with a demonstrated site specific locational need;

The recreation cabins part of the application constitutes recreation and tourism development. There is a lack of this type of facility in the Muirkirk area and therefore a locational need for this type of development.

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

It is considered that the proposed development can be justified in terms of social and economic benefit to the community.

D contributes to rural land diversification: or

Lowland Crofting and tourism accommodation development do contribute to rural land diversification.

E provides for the operational needs of agriculture and forestry.

This is not applicable to the proposed development.

East Ayrshire Local Plan

5.2 Policy RES18 is supportive of proposals for very low density housing developments (also known as 'Lowland Crofting') within the Rural Diversification Area, subject to a series of six stated criteria being met, as follows:

(i) the proposal comprising an integrated farm restructuring for a whole farm unit or for other areas, not less than 20ha in extent. The density of any residential development permitted shall not exceed 10 houses per 50ha of site area and the minimum plot size shall be 1.0ha;

The proposal as it stands complies with the above standards.

(ii) a minimum of 30% of the gross area involved being devoted to woodland and wildlife habitat uses with full access afforded to the general public.

Whilst less than 30% of the whole application site is devoted to woodland and its management, more than 30% of the areas to be developed for lowland crofting is to be set aside for this purpose. It is considered that this level of woodland uses is acceptable. Nonetheless it is considered that prior to any development within the Phase 2 Development Zone, additional areas of woodland should be provided to ensure that the 'technical' shortfall within this specific area is redressed.

(iii) each residential unit incorporating an integrated workplace or business function appropriate to and compatible with its rural location. Intrusive developments of a business or commercial nature, detrimental to the amenity, character and appearance of the rural area will not be permitted;

It is stated in the supporting information that each residential unit will have an integrated business element. No details have been supplied at this outline application stage but a condition requiring this will require to be attached to any consent issued.

(iv) all elements of the proposed development requiring to be sympathetic to its rural location in terms of size, scale, design, siting, material finish, landscaping and screening;

Indicative siting of the residential units is shown in the supporting information submitted with the application and they appear to be generally acceptable. However, these elements will be the subject of a reserved matters application.

(v) the residential units and their associated workplace or business elements being, wherever possible, grouped together in discreet areas to facilitate servicing and to reduce their environmental impact; and

The indicative layout shows the residential units located reasonably close together thereby meeting the above criterion.

(vi) the development requiring to be subject to a formal Section 75 Agreement with the Council, guaranteeing and controlling:

(a) the implementation, management and maintenance of all woodland planting, landscaping, nature conservation and public access arrangements in respect of the development; and

(b) the use and maintenance of all land associated with the development and, in particular, the business or workplace elements forming an integral part of the development proposal.

The general requirements of the Section 75 Agreement can be set out at this stage and the applicant has indicated a willingness to enter into such an agreement. The Section 75 Agreement will require to be further refined when the reserved matters application is being assessed, as there is insufficient information to detail all matters at this outline stage.

5.3 Policy TLR4 directs all new tourist accommodation proposals to existing settlements, although new hotel and self catering accommodation may be considered acceptable in a rural location in the following circumstances:-

(i) where there is a clearly demonstrated, site specific locational need;

It is accepted that the recreation cabins would promote tourism development in the Muirkirk Valley as there is a lack of this type of visitor accommodation in the area. It is considered that the proposal meets with (i) above.

(ii) where the proposal complies with the provisions of policy TLR3 above.

It is considered that the cabins generally comply with the provisions of policy TLR 3 as there are no existing buildings that

can be used for visitor accommodation and the cabins are proposed in an area well screened by woodland.

5.4 Phase one of the proposed development is contained within the Glenbuck Loch, Woodland and Floodplain Provisional Wildlife Site. The Scottish Wildlife Trust has indicated that the mature policy woodland surrounding the buildings of the former Glenbuck Home Farm is an important feature of the Provisional Wildlife Site. 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.

Under Policy ENV 15 (i) the Council will strongly encourage the protection and positive management of remaining areas of semi-natural woodland. The applicant states that the provisional wildlife site will be safeguarded with the proposed retention and management of the woodland.

The principle of lowland crofting is acceptable at this location subject to the Glenbuck Loch, Woodlands and Floodplain Provisional Wildlife Site being adequately protected.

6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal considerations relevant to the determination of the application are the consultation responses and the representations received.

Consultations

6.2 There are no consultation responses that would suggest that the application be refused.

Representations

6.3 It is considered that the points of objection, in so far as the potential new road is concerned, are not material to the consideration of this application. Other points of objection can be addressed through obligations within a Section 75 Agreement or by means of planning conditions in any consent granted. Points of detailed design and siting issues can be addressed at the Reserved Matters stage of the development.

7. FINANCIAL OR LEGAL IMPLICATIONS

7.1 There are no financial implications for the Council in the determination of this application. Legal implications will arise through the concluding of a Section 75 Agreement in respect of the matters detailed in Section 8.4 below.

8. CONCLUSIONS

8.1 As indicated in Section 5 of the report, the proposed development is considered to be in accordance with the Development Plan. Therefore, given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be approved unless material considerations indicate otherwise. As indicated in Section 6 above, there are material considerations relevant to this application, but in this regard, these can either be addressed through obligations in a Section 75 Agreement or by means of planning conditions, or are not of sufficient weight to set aside the provisions of the development plan.

8.2 The proposed development represents a significant opportunity to revitalise the rural economy within the identified rural diversification area and promote tourism related development within the environs of Glenbuck Loch. The proposed development will also result in the management of significant areas of woodland, together with additional woodland provision, for the benefit of nature and habitat conservation.

8.3 It is recognised that careful controls will require to be exercised in relation to ensuring that the development meets with the principles of low density housing (lowland crofting) as indicated with the EALP, but this can be secured through a Section 75 Agreement with the applicant. This is particularly important in relation to securing business uses associated with the proposed dwellings appropriate to this rural location.

8.4 In respect of all relevant matters and material considerations to be taken into account, it is considered that the proposed development is consistent with policy and that there are environmental and community benefits to be derived from the proposals. Consequently it is considered that the application should be approved. Should the Committee agree with this view and be disposed to grant planning permission, any consent should be withheld until a Section 75 Agreement under the Town and Country Planning (Scotland) Act 1997 has been concluded with the applicant in respect of the following matters:

- (i) The linking of the residential element of the development with an integrated business or workplace function appropriate to the rural location of the development, such that crofting units shall only be occupied by individuals employed full time in the associated and

integrated business activity. Appropriate rural businesses shall be the subject of discussion and agreement between the applicant and the Planning Authority.

- (ii) The production of a Woodland Management Plan for the site that shall include the following:
- A habitat survey of the woodland areas to ensure that appropriate assessment of the impact of management on flora and fauna is undertaken.
 - The provision of additional woodland areas, particularly within the Phase 2 Development Zone;
 - The inclusion of the woodland areas to the west of the application site within the Management Plan.
 - Details of the programme of works including timing and timescale of the plan.
- (iii) The submission of a Design Brief in respect of the proposed lowland dwellings and any ancillary buildings associated with the business uses to be undertaken on each plot..

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions listed on the attached sheet and that the issue of the decision notice be withheld until the Solicitor to the Council has satisfactorily concluded a formal agreement under Section 75 of the Town and Country Planning (Scotland) Act 1997 with the applicant, in respect of the matters described in Section 8.4 of this report.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards in terms of the principle of the proposed development, the application will require to be referred to the Development Services Committee for determination as such a decision would be a significant departure from Council policy.

Alan Neish
Head of Planning, Development and Building Standards

22 October 2004
HM/HM
FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices/Certificates.
3. Consultation responses.
4. Letters of representation.
5. Approved Ayrshire Joint Structure Plan (1999).
6. Adopted East Ayrshire Local Plan (2003).

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

Implementation Officer: Dave Morris

4. Access to individual properties will be via private accesses off the adoptable section of public road (only two properties will be allowed via a single private access) which would require to be of sufficient dimension and construction to be capable of catering for emergency vehicles. Maintenance responsibility would rest with the owners.

REASON – In the interests of public road safety.

5. Visibility improvements shall be required at the access point onto the Glenbuck Road and changes to the priority/road layout will require to be agreed and funded by the developer.

REASON – In the interests of public road safety.

6. Bin uplift storage areas shall be provided adjacent to the turning area.

REASON – In the interests of residential amenity.

7. No surface water from the individual driveways shall be allowed to discharge onto the proposed public road.

REASON – In the interests of public road safety.

8. A minimum of 3 off-road car parking spaces will require to be provided within each individual plot.

REASON – In the interests of residential amenity.

9. Access to the holiday cabins shall require to be taken off the turning area with all associated car parking (2 per cabin) contained within the cabins site. This access and parking area will not be eligible for adoption.

REASON – In the interests of public road safety.

10. The use of the cabins shall be restricted to short term holiday lets only and they shall not be used for long term residential occupancy. The cabins shall not be occupied by one individual, family or other parties for any more than 3 months in any 12 month period.

REASON – The proposed development is only acceptable in terms of a recreational use of the cabins.

11. The details to be submitted further to condition 1 above shall allow for the proposed crofting dwellings being designed with either a clearly defined integrated business floorspace or with details of ancillary buildings to accommodate a business function.

REASON – To meet the terms of Policy RES18 of the East Ayrshire Local Plan that requires an integrated residential and business function in crofting units.

➤ **NOTES TO APPLICANT**

1. The applicant should make early contact with East Ayrshire Council's Roads and Transportation Division, Council Offices, Lugar, Cumnock to discuss details of the proposed internal roads layout for the development site.

2. The applicant should make early contact with both Scottish Water and The Scottish Environment Protection Agency to discuss and agree the proposed surface water and foul drainage arrangements for the development site.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
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PLANNING OFFICE IN LUGAR. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 555320.**