

**EAST AYRSHIRE COUNCIL**

**SOUTHERN LOCAL PLANNING COMMITTEE: 09 SEPTEMBER 2005**

**05/0309/FL: PROPOSED CHANGE OF USE OF EXISTING AGRICULTURAL  
SHED TO FORM STORAGE FOR THE SALES AND DISTRIBUTION OF  
ANIMAL FEEDS, TO FORM STORAGE FOR AGRICULTURAL  
CONTRACTING MACHINERY AND FARM MACHINERY AND ERECTION OF  
A DWELLINGHOUSE  
AT BARDARROCH LODGE, BARDARROCH, OCHILTREE**

**APPLICATION BY MR J DUNLOP**

**EXECUTIVE SUMMARY SHEET**

**1. DEVELOPMENT DESCRIPTION**

1.1 Full planning permission is sought for the change of use of the existing agricultural shed to form storage for the sales and distribution of animal feeds and to form storage for agricultural contracting machinery and farm machinery, which is used in connection with an agricultural contracting business. The application is retrospective as the business is currently being conducted from the site. The change of use would be utilising a recently approved shed, which was approved under an Agricultural Notification application when the applicant was owner of Bardarroch Farm in October 2004.

1.2 In addition to this, permission is sought to erect a dwellinghouse in association with the operation of the agricultural contacting business and for the farming of land retained by the applicant following the sale of Bardarroch Farm. The proposed house would be a single storey 7 apartment bungalow positioned to the eastern boundary of the site with its own private access. The design of the dwellinghouse is considered to be appropriate to its rural location.

**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; however it is not considered that these are supportive of the application.

3.2 Full planning permission is sought for the erection of a single storey dwellinghouse and the change of use of an agricultural shed to form storage for the sales and distribution of animal feeds, to form storage for agricultural contracting machinery and farm machinery which is already operating from the application site. This is proposed by the applicant who recently has sold Bardarroch Farm with the aim of diversifying the farming business. The supporting information provided by the applicant indicates that the selling of the farm has allowed diversification into the farm feeds business and agricultural contracting operations whilst retaining a small farming element on the 37 hectares of land which the applicant owns and rents. As explained, the associated business element is currently up and running from the agricultural shed with the applicant currently living on site in a static caravan for security reasons. As noted in Section 6.3 of the report the caravan is also the subject of a separate retrospective planning application.

3.3 To conclude, the applicant is currently operating two separate businesses from the agricultural shed both of which have been established as a farm diversification. It has been noted in Section 6 of the report that the business element of the proposal is largely compliant with the relevant policies of the East Ayrshire Local Plan. However, the erection of a residential dwellinghouse is contrary to policy on both the grounds that the farming element does not itself support a dwellinghouse and the fact that the applicant has recently sold off Bardarroch Farm within the last 5 years. On this basis the overall proposal for the business use together with the erection of an associated dwellinghouse is not acceptable.

## **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 be a significant departure from the East Ayrshire Local Plan.

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

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

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**APPLICATION BY MR J DUNLOP**

**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, as the proposal is partly contrary to policy, is the subject of objection and is recommended for refusal.

### **2. APPLICATION DETAILS**

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

2.2 The application site is largely level rising slightly to the north and covering an approximate area of 5.72 hectares. However the land directly associated with the proposed development covers an area of approximately 5,000m<sup>2</sup> within the small wooded area. The site is bounded to the south and west by agricultural land and to the north by the unclassified road, while to the east the boundary line is shared with an existing residential property at Bardarroch Farm Cottage. Access to the site is currently taken to the north east through a large gateway, directly adjacent to Bardarroch Farm Cottage.

2.3 **Proposed Development:** Full planning permission is sought for the change of use of the existing agricultural shed to form storage for the sales and distribution of animal feeds and to form storage for agricultural contracting

machinery and farm machinery, which is used in connection with an agricultural contracting business. The application is retrospective as the business is currently being conducted from the site. The change of use would be utilising a recently approved shed, which was approved under an Agricultural Notification application when the applicant was owner of Bardarroch Farm in October 2004.

2.4 In addition to this, permission is sought to erect a dwellinghouse in association with the operation of the agricultural contracting business and for the farming of land retained by the applicant following the sale of Bardarroch Farm. The proposed house would be a single storey 7 apartment bungalow positioned to the eastern boundary of the site with its own private access. The design of the dwellinghouse is considered to be appropriate to its rural location.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 Ochiltree Community Council has not responded to the consultation letter at the time of writing this report

***Noted.***

3.2 Scottish Water has noted that there is water apparatus located within the development site which may be affected by this application and advise that contact is made with Developer Services to discuss what measures can be taken to safeguard this apparatus.

***A note can be attached to any consent granted for the development to advise the applicant to make early contact with Scottish Water.***

3.3 The Scottish Environment Protection Agency has not responded to the consultation letter at the time of writing this report

***Noted.***

3.4 Power Systems has no adverse comments to make on this application

***Noted.***

3.5 East Ayrshire Council Roads and Transportation Division has no objections to the proposed development subject to the following road safety requirements being met:

For the sale of the feedstuffs and storage of agricultural machinery:

- (i) The existing U74 public road will require to be widened to 5.0m width over a minimum length of 20m with 200mm Type 1 Sub base and 80mm DBM

- base course across the front access to the shed. This will then require a 40mm HRA wearing course overlay over the complete widened area including existing road. To avoid damage to the public road due to turning vehicles and to provide sufficient width to turn
- (ii) The access road to the shed must be hard paved over a minimum length of 5.0m back from the edge of the widened area of road. To avoid the over carry of loose material onto the public road.
  - (iii) Any gates shall be set back 15m from the edge of the public road.
  - (iv) Any existing drains/utility apparatus shall be protected beneath the shed.
  - (v) An internal turning area capable of accommodating large vehicles shall be provided within the site to allow vehicles to enter and leave the public road in forward gear. All parking to be within the site.
  - (vi) No surface water shall be allowed to discharge onto the site from the public road.

For the erection of the dwellinghouse:

- (i) The existing U74 public road will require to be widened to 5.0m width over a minimum length of 20m with 200mm Type 1 Sub base and 80mm DBM base course across the front access to the house.
- (ii) The driveway must be bituminously/hard surfaced for a minimum distance of 5.0m back from the edge of the public road to avoid the overcarry of loose material onto the public road.
- (iii) Any gates must be set back 5.0m from the edge of the public road.
- (iv) Any existing drains/utility apparatus must be provided beneath the house access.
- (v) An internal turning area capable of accommodating cars must be provided within the site to allow vehicles to enter and leave the public road in forward gear.
- (vi) All parking to be within the site with a minimum of 3 parking spaces.
- (vii) No surface water shall be allowed to discharge from the site onto the public road.
- (viii) Visibility splays of 2.5m by 90m minimum shall be provided at the access point with no obstruction over 1.0m in height within the splay areas formed.

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

#### **4. REPRESENTATIONS**

4.1 One letter of representation has been received raising a number of concerns with regard to the proposed development.

4.2 I moved my family away from the town life and busy traffic to the country for a more peaceful and relaxed life and it is beyond belief that what was a wooded area next door is now a bustling animal feed business with an abundance of 4 wheel drives coming and going, not to mention the freight lorry that delivers the feed. Surely an agricultural storage shed so close to our family home should not be allowed to trade as such.

***An Agricultural Notification application for the erection of an agricultural shed on the current application site was submitted by the applicant while he was the owner of Bardarroch Farm. The proposed erection of a shed at this site was compliant under the terms of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 which allowed a shed of this size to be constructed without the submission of a full planning application. At this time the shed was justified as being required for the workings of the farm unit. However, concerns were raised over the proximity to the neighbouring property which at the time was for sale. Therefore, contact was made with the applicant and amended plans were submitted for the relocation of the proposed shed some 12 metres from the neighbouring dwellings boundary.***

4.3 I strongly object to a plant hire business being run from this shed (12 metres from my boundary) (enclosed advert from Yellow Pages 2005/2006). However, I am amazed that this is now up and running along with the other business of horse and dog feed, not to mention a massive static caravan and agricultural machinery.

***This issue of the operation of a general plant hire business was raised with the applicant who has submitted information justifying his actions. The applicant has stated that his son has run a plant hire business for many years and due to his son moving house the business was advertised with the address and telephone number of Bardarroch Lodge. The applicant goes on to clarify that his son's business is carried out elsewhere with his machines stored in his own yard and his accounts registered at a different address. In relation to the horse, dog feed and agricultural machinery business it is considered that, as the applicant has made a retrospective application for the change of use of the agricultural shed, no formal enforcement action should be taken until the application is determined. Furthermore, a retrospective application has been submitted for the siting of a static caravan (Ref: 05/0874/FL) which will be considered and determined in due course.***

4.4 The machines are stationed and power cleaned 4 to 5 metres from my boundary at all times of day and night.

***Due to the close proximity of the neighbouring residential property, if the application is approved a condition can be attached in relation to operating hours.***

4.5 Due to these two illegal businesses there has been increased traffic, especially large lorries and plant hire, JCB's etc which has meant the Roads Department have been out twice since November 2004 to fill in large pot holes.

***The Roads and Transportation Division has recommended conditions in respect of the proposed development as noted in section 3 of the report. However, prior to submitting the Agricultural Notification application the applicant had prior discussions with the Roads and Transportation Division to discuss any possible resulting issues with respect to the formation of an agricultural shed. The Division has noted that with the volumes of traffic indicated by the applicant this is likely to result in some deterioration of the road over time and the Division would therefore reserve the right to recover any extraordinary costs for maintenance of the road over and above that currently done on the road under Section 96 of the Roads (Scotland) Act 1984.***

4.6 I know that Mr Dunlop was once a farmer in this area but surely that does not give him the right to uproot what was once a dense wooded area and start up businesses of this nature in such a beautiful rural position and so close to our family home. This situation has now become intolerable.

***When the applicant applied for the erection of an agricultural shed at land adjacent to Bardarroch Farm Cottage, he was the farmer of Bardarroch Farm and therefore was only required to submit an Agricultural Notification to the Planning Authority, which was subsequently approved under delegated powers. The area the applicant decided to erect a shed was a dense small wooded area however, as the trees were not covered by a tree preservation order, the Planning Authority could not prevent the removal of any trees. The remaining trees assist in acting as a natural screening for the associated shed.***

## **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;

***It is accepted that the sale of animal feeds and agricultural machinery contracting business could justifiably be located in the rural area given that these businesses would serve people involved in rural activities such as agriculture. However, it is considered that a house attached to the business cannot be justified in terms of this criterion.***

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

***The business element of the proposal may have some social/economic benefit to the community as it provides jobs and assists agricultural practices. However, no such benefits would arise from the construction of a dwelling.***

C contributes to rural land diversification: or

***The business element of the application could be considered to contribute to rural land diversification.***

D provides for the operational needs of agriculture and forestry.

***The animal feeds and agricultural machinery contracting business could be considered to provide for the operational needs of agriculture and forestry. However, a house in the countryside would not.***

## East Ayrshire Local Plan

5.3 The sale of animal feeds element of the proposal requires to be assessed against policy RTC 7 which supports retail development proposals in out-of-town centre locations in six stated circumstances. One of these circumstances is pertinent to the application, this being where:

(iv) the proposal is for a farm shop, falling within Class 1 of the Use Classes Order, related specifically to local agricultural or horticultural activities and where the goods sold are limited exclusively to those produced or grown on site;

***Although the sale of animal feeds is not strictly speaking a farm shop, it is considered that it is a suitable rural retail function serving rural businesses. For this reason it is considered that the retail element of the application complies with the spirit in which RTC 7 is intended.***

5.4 The agricultural contracting machinery business requires to be assessed against policy IND 10. which 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. One of these stated types of development is pertinent to the application, this being:-

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

***It is considered that the agricultural machinery contracting business is an appropriate rural business as it is directly related to agriculture. The proposal therefore conforms with policy IND 10.***

5.5 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. One of those purposes is pertinent to the application under consideration, this being;

(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;

***It is considered that a business selling animal feeds and contracting agricultural machinery does not require a worker to live on site for its economic operation. The business could function without a worker living adjacent to it. For this reason the residential element of the business is not justified and is therefore contrary to policy RES 13.***

***The applicant has further submitted an agricultural labour assessment which states that the family business can justify 2.83 labour units. However, most of this is taken up by the farm diversification element of the business i.e. farm contracting and animal feeds. Taken alone, the farming element totals only 0.79 labour units. The farm, cannot therefore justify one full time worker and the proposal remains contrary to policy RES 13.***

5.6 Policy RES16 is not supportive of any proposals for additional houses in the countryside for agricultural workers where it can be established that:

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

***An application was made by the applicant for the erection of an agricultural shed whilst owning Bardarroch Farm in November 2004. However, the substantial part of the farm lands and Bardarroch farm house itself have been sold by the applicant and hence the current proposal to erect a new house at this location. In essence the applicant had accommodation in the locality but has sold that within the last five years and the proposal is contrary to policy.***

5.7 It is further described in Policy RES16 that the Council will not generally be supportive of proposals for new agricultural workers houses where the farm unit to which the proposal relates has been established for a period of less than two years. The siting of a residential caravan to accommodate an agricultural worker for a limited period may be considered acceptable with regard to newly established farm units where this can be fully justified to meet the operational requirements of the unit.

***The retail and business elements of the proposal are acceptable in planning policy terms. However, the residential element of the application is not as it cannot be justified in terms of Policies RES13 and RES16 of the East Ayrshire Local Plan.***

## **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 area.

### Consultations Responses

6.2 The consultation responses received would indicate that the approval of the application would be appropriate.

### Planning History

6.3 The site in question has been the subject of one previous application for the erection of an agricultural shed. This planning history is detailed below:

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

(ii) 05/0874/FL - A retrospective application for the temporary siting of a static caravan has been submitted for consideration and is still to be determined.

***There has only been one application determined on this site which was for an associated agricultural / implement shed in relation to Bardarroch Farm which at that time was owned by Mr and Mrs Dunlop. However a further application has now been submitted following a formal letter of objection in relation to the siting of a large static caravan on site. The Planning Authority are in the process of dealing with this application on the basis of security for the machinery and stock stored within the shed.***

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial implications for the Council in the determination of this application. Legal implications would arise in terms of initiating enforcement action to remedy the breach of planning control, should the Committee be minded to refuse the 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 not considered that these are supportive of the application.

8.2 Full planning permission is sought for the erection of a single storey dwellinghouse and the change of use of an agricultural shed to form storage for the sales and distribution of animal feeds, to form storage for agricultural contracting machinery and farm machinery which is already operating from the application site. This is proposed by the applicant who recently has sold Bardarroch Farm with the aim of diversifying the farming business. The supporting information provided by the applicant indicates that the selling of the farm has allowed diversification into the farm feeds business and agricultural contracting operations whilst retaining a small farming element on the 37 hectares of land which the applicant owns and rents. As explained, the associated business element is currently up and running from the agricultural shed with the applicant currently living on site in a static caravan for security reasons. As noted in Section 6.3 of the report the caravan is also the subject of a separate retrospective planning application.

8.3 To conclude, the applicant is currently operating two separate businesses from the agricultural shed both of which have been established as a farm diversification. It has been noted in Section 6 of the report that the business element of the proposal is largely compliant with the relevant policies of the East Ayrshire Local Plan. However, the erection of a residential dwellinghouse is contrary to policy on both the grounds that the farming element does not itself support a dwellinghouse and the fact that the applicant has recently sold off Bardarroch Farm within the last 5 years. On this basis the overall proposal for the business use together with the erection of an associated dwellinghouse is not acceptable.

## **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 be a significant departure from the East Ayrshire Local Plan.

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

30 August 2005  
HM/HM  
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. Letter of representations
7. SAC Labour Assessment Report
8. J&J Dunlop Business Plan by W.G McHarg & Co.
9. Supporting information from Mr Boston on behalf of Mr Dunlop
10. Supporting information from Miss Christine McNab
11. Extract from the "Scottish Farmer" 19/02/05

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: 05/0309/FL

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Location	Bardarroch Lodge Bardarroch OCHILTREE
Nature of Proposal:	Proposed Change Of Use Of Existing Agricultural Shed To Form Storage For The Sales And Distribution Of Animal Feeds, To Form Storage For Agricultural Contracting Machinery And Farming Machinery And The Erection Of A Dwellinghouse
Name and Address of Applicant:	Mr & Mrs Dunlop Bardarroch Lodge, Bardarroch OCHILTREE KA18 2RR
Name and Address of Agent	Mr Boston 34 Main Street PRESTWICK KA9 1NX

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

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

1. The proposed dwellinghouse would constitute the erection of a new dwelling in the countryside which has not been justified in terms of the requirements of Policy G5 of the Approved Ayrshire Joint Structure Plan 1999 and Policies RES13 and RES 16 of the Adopted East Ayrshire Local Plan 2003.

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