

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 1 AUGUST 2002

01/0741/FL: PROPOSED DEVELOPMENT TO HOUSE AND EXERCISE APPROX 10 GREYHOUNDS AT HAINING MAINS, HURLFORD BY DWS STRAWHORN

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought to change the use of the area of land from an agricultural use to an area in which approximately ten greyhounds can be housed and trained. The development involves the erection of two kennels, one of approximately 3 metres by 2 metres and the other approximately 4 metres by 2 metres within a 4 metre by 20 metres enclosure erected from 2 metre high metal sectional fencing. This application is retrospective as the proposal has been on site since approximately October 2001.

2. RECOMMENDATION

2.1 It is recommended that the application be refused for the reason indicated on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report, the development plan is out of date and given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the material considerations.

As is indicated in Section 6 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these material considerations should be the determining factor in the consideration of this application. It is considered that the increase in type and numbers of vehicles utilising the former field access from the site to the A76 trunk road would present an unacceptable risk to road users in the locality.

CONTRARY DECISION NOTICE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee in accordance with the scheme of delegation because approval would be contrary to the recommendation of the Scottish Executive and would require notification to the

Scottish Ministers under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.

Alan Neish
Head of Planning and Building Control

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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Report by Director of Development Services

1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination an application which is to be considered by the Local Planning Committee under the scheme of delegation because it has been the subject of an objection and is recommended for refusal.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site is located off the A76, 2.3 kilometres east of the Bellfield interchange and 800 metres south of the village of Hurlford. The application site is bounded to the north by the Kilmarnock to Dumfries railway, to the south by the A76 Kilmarnock to Cumnock trunk road and to the east by an area of agricultural ground. The site entrance is within 170 metres of the new roundabout on the A76 accessing the Kilmarnock Prison.

2.2 **Proposed Development:** Full planning consent is sought to change the use of the area of land from an agricultural use to an area in which approximately ten greyhounds can be housed and trained. The development involves the erection of two kennels, one of approximately 3 metres by 2 metres and the other approximately 4 metres by 2 metres within a 4 metre by 20 metres enclosure erected from 2 metre high metal sectional fencing. This application is retrospective as the proposal has been on site since approximately October 2001.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads & Transportation Division has confirmed that it has no objection to the proposed change of use however it indicates that it is not the enforcing authority in relation to the A76 trunk road.

Noted.

3.2 The Scottish Executive Development Department – Road Network Management and Maintenance Division has objected to the application on the grounds that the proposed development would result in increasing the number and type of vehicles entering and leaving the traffic stream at a point where access to the site is restricted thus creating interference with the safety and free flow of the traffic on the trunk road. It also indicates that the existing access is substandard and with

an increase in use would create interference with the safety and free flow of traffic on this length of trunk road where vehicle speeds are high and traffic volumes are heavy.

The Scottish Executive are of the view that approval would be likely to set a precedent whereby it would be difficult to resist further proposals of a similar nature making use of existing accommodation accesses and consequently recommend refusal of the application.

Noted. Should the Committee agree to approve the application, in view of the above comments it would require first to be considered by the Development Services Committee and thereafter referred to the Scottish Ministers if approval remains the decision.

3.3 The Scottish Environment Protection Agency has indicated that it has no objection to the principle of the kennels and dog run. However, it indicates that the disposal of the effluent produced by the dogs requires to be in accordance with the SEPA guidelines, thus requiring disposal either via a settlement tank and then disposed of at a licenced site or via a septic tank and total soakaway system.

A condition can be added to any grant of Planning Consent regarding the disposal of effluent from the site.

3.4 Scottish Water has indicated that it has no comment to make regarding this application.

Noted.

3.5 Hurlford and Crookedholm Community Council has not responded at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 The application is subject to one objection from the Scottish Executive Development Department as detailed in 3.2 above.

4.2 The applicant has submitted a letter in support of his application stating “the entire farm unit is devoted to dairy farming with maximum use being made of all the available grassland. The only area not in use is the small paddock (application site) which is not used because of its proximity to the county road is not suitable for moving stock into or from the area.

For the area to be of commercial value it will be necessary for the occupier to diversify and to use the area for a non-agricultural purpose. For this reason it has been let to another party who utilises the land as an exercise area for greyhounds.”

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 and the Adopted Kilmarnock Local Plan, (1986). The Adopted Local Plan was prepared within the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan, the proposal would fall to be considered against it. However there are no policies within the Adopted Local Plan relevant to the consideration of this application and therefore greater weight should be attached to the other material considerations.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principal material considerations relevant to the determination of the application are the East Ayrshire Local Plan (Finalised Version with Modifications), and consultation responses.

6.2 The Adopted Local Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the East Ayrshire Local Plan Finalised Version with Modifications (EALP) should be considered a prime material consideration.

There are no policies within the EALP which apply to this proposal.

Noted.

6.3 The representation of the Scottish Executive has indicated that the proposals would be detrimental to road safety on the A76.

Noted.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application.

8. CONCLUSIONS

8.1 As is indicated at Section 5 of this report, the development plan is out of date and given the terms of Section 25 and Section 37(2) of the Town and Country Planning (Scotland) Act 1997, the application should be assessed against the material considerations.

As is indicated in Section 6 of the report, there are material considerations relevant to this application. It is considered that the weight that should be attached to these

material considerations should be the determining factor in the consideration of this application. It is considered that the increase in type and numbers of vehicles utilising the former field access from the site to the A76 trunk road would present an unacceptable risk to road users in the locality.

9. RECOMMENDATION

9.1 It is recommended that the application be refused for the reason indicated on the attached sheet.

CONTRARY DECISION NOTICE

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning and Building Control, the application will not require to be referred to the Development Services Committee in accordance with the scheme of delegation because approval would be contrary to the recommendation of the Scottish Executive and would require notification to the Scottish Ministers under the terms of the Town and Country Planning (Notification of Applications) (Scotland) Direction 1997.

Stephen Chorley
Director of Development Services

17 June 2002

(CSI/MS)

FV/DVM

List of Background Papers

1. Application forms.
2. Statutory Notices and Certificates.
3. Consultation Replies.
4. East Ayrshire Local Plan (Finalised Version with Modifications).
5. Adopted Kilmarnock Local Plan.
6. Approved Ayrshire Joint Structure Plan.
7. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Craig Iles, Tel: 01563 576770.

Implementation Officer: Dave Morris

Form TP24

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Application No: 01/0741/FL

Location	Haining Mains Mauchline Road HURLFORD
Nature of Proposal	Proposed Development to House and Exercise Approx. 10 Greyhounds.
Name & Address of Applicant	D W S Strawhorn & Sons Haining Mains Mauchline Road HURLFORD Kilmarnock KA1 5JH
Name & Address of Agent	Hugh A McRorie 1 Corsehill Park AYR KA7 2UG

DPO's Ref: Craig Iles
PPO's Ref:

The above FULL application should be refused for the following reason:

1. The proposed development would be detrimental to road safety by reason of the increase in vehicle numbers and types entering and leaving the traffic system via a substandard junction at a point where access to the site is restricted thus creating interference with the safety and free flow of the traffic on the A76 trunk road.

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THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA