

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 01 MARCH 2002

**01/0735/FL: PROPOSED CHANGE OF USE OF DOMESTIC TO PART DOMESTIC,
PART VETERINARY PHYSIOTHERAPY CLINIC
AT GOLDEN ACRE, AIKET ROAD, DUNLOP
BY LARA AND JIM MOSER**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 It is proposed to change the use of the part of the dwellinghouse and stables to form a veterinary physiotherapy clinic. Information submitted by the applicant confirms that a room of the house will be utilised as an office/administration base for the clinic, and areas of the existing stable block (20% of the building) will be used for the separate treatment of horses and/or dogs. The existing outside horse exercise area will be used for the assessment of horses that will be treated at Golden Acre. It has been confirmed by the applicant that the majority of the clients will be dealt with off site at the client's own home.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

3. CONCLUSIONS

3.1 As is indicated at paragraph 5.2 of the report, the application is considered to be contrary to 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, primarily the terms of the EALP. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan.

3.2 The application is considered to be compliant with the East Ayrshire Local Plan, however to assess any impacts arising from the proposal it is also considered that a temporary consent in the first instance would be appropriate.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused 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 as it would not represent a significant departure from Council policy.

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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01/0735/FL: PROPOSED CHANGE OF USE OF DOMESTIC TO PART DOMESTIC, PART VETERINARY PHYSIOTHERAPY CLINIC AT GOLDEN ACRE, AIKET ROAD, DUNLOP BY LARA AND JIM MOSER

Report by Head of Planning and Building Control

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 objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The site is the house known as 'Golden Acre' and an area of land to the rear. Golden Acre is situated to the north of a significant row of properties on Aiket Road and currently enjoys the benefit of additional land to the rear. It has a 'U' shaped stable block and custom built horse exercise yard close to the house.

There is other housing to the south but adjacent uses are of an agricultural nature.

2.2 **Proposed Development:** It is proposed to change the use of the part of the dwellinghouse and stables to form a veterinary physiotherapy clinic. Information submitted by the applicant confirms that a room of the house will be utilised as an office/administration base for the clinic, and areas of the existing stable block (20% of the building) will be used for the separate treatment of horses and/or dogs. The existing outside horse exercise area will be used for the assessment of horses that will be treated at Golden Acre. It has been confirmed by the applicant that the majority of the clients will be dealt with off site at the client's own home.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has confirmed that it has no objections to the proposal.

Noted.

3.2 The Scottish Environment Protection Agency have advised that they have no objection to the proposal as it is unlikely to compromise their interests.

Noted.

3.3 Both Stewarton and District Community Council and Dunlop and Lugton Community Council were consulted but have not responded at the time of writing this report.

Noted.

3.4 East Ayrshire Council Environmental Services has confirmed that they have no objections to the proposal.

Noted. It should be noted that this Service was specifically requested to consider the points raised by third party objectors in relation to the perceived noise nuisance from the proposed use. (see para 4 below).

4. REPRESENTATIONS

Two letters of objection have been submitted in connection with the application from residents of the area not adjacent to the site.

4.1 The grounds of objection relate to a number of matters. Given the relative unusual nature of the proposal the applicant has responded clarifying a number of issues raised.

4.2 Will animals be boarded at the premises on a regular or long term basis?

The applicant confirms that it is intended/anticipated that most client animals will be treated at their home address, although the applicant does not rule out the occasional requirement to provide overnight accommodation for a client animal.

4.3 Dogs should not be catered for overnight. Currently noise nuisance is experienced from an existing local kennel establishment.

The applicant does propose to treat dogs if required. However it should be noted that the Council's Environmental Health Service has raised no objection to the proposal as submitted.

4.4 What is the future long term use intended for this business? Unrestricted expansion or intensification could lead to additional nuisance.

Noted. As stated above it is acknowledged that the proposal is unusual however on the basis of the information submitted there is no substantive justification to refuse the application. However, it is considered prudent to allow a temporary consent to permit monitoring of the proposal and any adverse impacts.

4.5 The commercial use of the premises at Golden Acre will lead to an intensification of traffic on Aiket Road to the further detriment of safety of both pedestrian and vehicular road users.

The Roads Division have confirmed that they have no objection to the proposal.

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 Stewarton Local Plan (1987). 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 Policy 5.3.9 which confirms the criteria against which commercial development in the countryside will be assessed, eg rural related businesses, tourist facilities.

The proposal does not specifically comply with any of the listed criteria and is considered to be contrary to the terms of the policy for that reason.

It should be noted however that this policy would permit the breeding or boarding of cats, dogs or other non-agricultural animals.

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, consultations and representations

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.

Policy IND 10 supports business development outwith the settlement boundary where the proposal relates to certain criteria which includes “(ii) sympathetic business developments related to appropriate rural activities”.

Whilst there is a degree of speculation in the application it is confirmed by the applicant that the care of horses on site will be a significant element of the proposal. The application is therefore considered to be compliant with this policy.

Policy IND 11 relates to small businesses operating in residential properties. The Council is supportive of such ventures where:

- (i) the primary use of the property remains residential;
- (ii) the business can adequately be accommodated within the existing property;
- (iii) the business use does not adversely affect the existing residential use of the property or impact adversely on other residential properties in the area; and
- (iv) that adequate car parking is provided to the standards of the Roads Authority.

The proposed development has been assessed and found to accord with the above.

Consultations

6.3 The consultation responses have raised no issues of a substantive nature that would justify the refusal of the application as currently proposed.

Representations

6.4 The representations (see section 4 above) have been assessed and whilst it is acknowledged that they raise valid planning considerations the consultation responses have not substantiated these concerns.

However, given the relatively novel nature of the proposal it is considered prudent to grant consent for a temporary period to allow for an initial period of monitoring.

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 paragraph 5.2 of the report, the application is considered to be contrary to 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, primarily the terms of the EALP. It is considered that the weight that should be attached to these material considerations should be greater than that given to the policies of the Adopted Local Plan due to the age of this plan.

8.2 The application is considered to be compliant with the East Ayrshire Local Plan, however to assess any impacts arising from the proposal it is also considered that a temporary consent in the first instance would be appropriate.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused 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 as it would not represent a significant departure from Council policy.

Alan Neish
Head of Planning and Building Control

19 February 2002
(IW/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application form/Plans.
2. Statutory Notices/Forms.
3. Consultations.
4. Representations.
5. Stewarton Adopted Local Plan 1987.
6. EALP Finalised Version with Modifications.
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Ian Walker on 01563 576769.

Implementation Officer: Dave Morris

010735FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

01/0735/FL

Site of Proposal: Golden Acre
Aiket Road
DUNLOP

Nature of Proposal: Proposed Change of Use from Domestic to
Part Domestic, Part Veterinary Physiotherapy
Clinic

Name & Address of Applicant: Lara and Jim Moser
Golden Acre
Aiket Road
DUNLOP
Kilmarnock KA3 4BW

Name & Address of Agent:

DPOs Reference: IW/MMM

The above FULL application should be granted subject to the following conditions:-

1. Permission is granted for a limited period of 1 year from the date hereof, and the use shall be discontinued, at the expiration of this period unless a further permission is granted.

REASON To enable the Planning Authority to review the situation in the interests of residential amenity.

2. No more than 2 client animals shall be kept overnight at the premises at any one time.

REASON In the interests of residential amenity.

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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