

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 03 MAY 2002

**00/0467/FL: PROPOSED ERECTION OF STORAGE SHED AND SITING
OF TEMPORARY ACCOMODATION
AT LANDS OF KIRKLEA, JOCKSTHORN, KILMAURS
BY MRS P MARR**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of a storage shed and for the siting of temporary accommodation associated with a land holding extending to approximately 20 hectares. The applicants intend to keep 12 store cattle, produce vegetables from 0.5 hectares, maintain the bulk of the holding for grassland or production of hay/silage and operate a livery with stabling, exercising and grooming facilities from a multi purpose shed. A static caravan is also proposed which would provide temporary accommodation associated with the holding.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated at paragraph 5.2 of the report, the application is considered not to fully accord with the terms of 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 para 6.2 to 6.7 of the report, there are material considerations relevant to the determination of this application.

3.2 Given the age of the Adopted Local Plan, the Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications) should be considered as a prime material consideration. The proposal accords with the EALP other than that it does not consolidate an existing building group. Nevertheless, the location of the site benefits from being significantly screened by the topography and from an operational aspect needs to be central to the new holding.

3.3 The objection raises valid planning considerations, however, their weight does not overcome the merits of the proposal.

3.4 The application allows for the holding to become established with the prospect thereafter of a separate application for a permanent house. It is considered that the commercial use of the site should be in place over a period of 2 years before a more permanent accommodation is assessed.

3.5 The temporary accommodation is to be located immediately adjacent to the shed. Full details of that accommodation should be required by condition; this being considered appropriate in as much as that unit will be substantially dwarfed by the shed in respect of which details have been lodged.

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 would not require to be referred to the Development Services Committee as it would not be a significant departure from 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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NORTHERN AREA LOCAL PLANNING COMMITTEE: 3 MAY 2002

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OF TEMPORARY ACCOMODATION
AT LANDS OF KIRKLEA, JOCKSTHORN, KILMAURS
BY MRS P MARR**

Report by Head of Planning and Building Control

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 because the application is subject to an objection.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises 0.1 hectares of agricultural land located to the south east of Kilmaurs, some 250 metres from both Jocksthorn Farm and from the Tour, Kilmaurs. The site lies to the west of an access road to Jocksthorn Farm about 130 metres from where that road meets the public road, (C117). The ground rises between the public road and the site such that the proposed development would be significantly screened from that road. The site lies in the corner of a field where low hedging marks the boundary to the access road.

2.2 **Proposed Development:** Full planning consent is sought for the erection of a storage shed and for the siting of temporary accommodation associated with a land holding extending to approximately 20 hectares. The applicants intend to keep 12 store cattle, produce vegetables from 0.5 hectares, maintain the bulk of the holding for grassland or production of hay/silage and operate a livery with stabling, exercising and grooming facilities from a multi purpose shed. A static caravan is also proposed which would provide temporary accommodation associated with the holding.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council Roads and Transportation Division has no objection subject to:

- The access from the public road (C117) to the new dwelling must not be used by more than two properties; the layout plan indicates access being shared by one other property, this should be confirmed by applicant.
- The sight line standard for the new access $x=2.5$ metres and $y=160$ metres (this is greater than shown on the submitted layout plan).
- The access junction with the C117 is to be constructed in accordance with the Roads Divisions standard requiring a road opening permit to be obtained before commencing work. At the junction the access should be 5.5 metres wide with kerbed radii of 4.5 metres. The construction of the access should be to full road construction over the first 4.5 metres thereafter the construction remains the choice of the applicant, though providing a bituminous surface over the first 10 metres by 5.5 metres wide as indicated on the submitted plan would be desirable.
- All work involving the access is to be carried out before the dwelling is occupied.

The above points can be achieved with the use of conditions attached to any grant of planning consent.

3.2 Scottish Environment Protection Agency has no objection to this proposal provided that the drainage arrangements are to their satisfaction. In view of the absence of a watercourse suitable for the acceptance of septic tank effluent, it is recommended that the possibility of providing a sub-soil soakaway system for effluent disposal is investigated. The septic tank and soakaway will require to be designed and constructed in accordance with the current code of practice BS6297: 1983. This will require the applicant to carry out percolation testing on site to assess the suitability of the sub-soil for effluent disposal. Surface water should be excluded from the septic tank.

SEPA would request that the applicant confirms that this method of effluent is viable prior to development commencing at the site. It is noted that the applicant intends to house livestock in the storage shed, he should therefore contact the Agency directly to discuss his requirements, if any, in respect of the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) (Scotland) Regulations 1991.

The above points can be addressed by condition and through the use of a 'note to applicant' attached to any grant of planning consent.

3.3 West of Scotland Water (Scottish Water) comments that there are no known sewers to which a connection may be made. If a septic tank is utilised it must be sited in such a manner as to allow easy access for emptying by tanker.

Contact should be made with West of Scotland Water to discuss how the proposed development would be best served with a public water supply.

The above points can be addressed by condition and through the use of a 'note to applicant' attached to any grant of planning consent.

3.4 Kilmaurs Community Council has not replied at the time of writing this report.

Noted.

3.5 West of Scotland Archaeology Service comment that the application site lies close to the presumed location of a possibly medieval castle site. However, the development area is very unlikely to contain archaeological remains of a significant nature.

The topography of the area is such that the most likely location for a medieval settlement or defensive site lies on the high ground immediately to the east of the current application boundary. The low-lying ground occupied by the application site is unlikely to have been utilised for settlement before the modern period. West of Scotland Archaeology Service are therefore confident that no archaeological issue will be raised by development within the current proposed boundary.

Noted.

3.6 The Coal Authority has offered no objections to the proposal.

Noted.

4. REPRESENTATIONS

One letter of objection has been received. The grounds of objection are as follows:-

4.1 The proposal deviates from the current policy for this area.

The application is assessed against the development plan and the East Ayrshire Local Plan Finalised Version with Modifications in Sections 5 and 6 of this report where the proposal is considered on balance to be acceptable in terms of policy.

4.2 The erection of such a shed would be an eyesore.

The site lies in a hallow, significantly screened from the public road to the east by rising ground. For this reason and with appropriate consideration to materials, the appearance of the development will be acceptable.

4.3 No other shed requires such temporary accommodation and indeed will temporary accommodation in time become permanent?

The applicant is intending to form a rural enterprise comprising various agricultural activities and a non-agricultural livery stable. Together, these uses provide employment for one individual and, in turn, justification for a residential unit in the countryside. In the longer term, the applicant intends to apply for such a house but having consulted with the Planning and Building Control Division, is seeking first to

establish the viability of the enterprise as a pre-cursor to any future residential application.

The temporary accommodation allows the enterprise to be commenced and the justification of a future house for a farm worker to become established.

4.4 The area is home to an abundance of wildlife and protected species of birds.

The site is not subject to any natural heritage or wildlife conservation constraints.

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 Adopted Kilmarnock Local Plan (1985) and the Approved Ayrshire Joint Structure Plan (1999). The Adopted Local Plan was prepared in the context of the then emerging Strathclyde Structure Plan.

5.2 Notwithstanding the age of the Adopted Local Plan the application site lies within the rural area as defined in the Adopted Local Plan. The application therefore requires to be determined in relation to Policy Nos 5.10.3 and 5.10.5.

Policy 5.10.3 does not allow housing development in the countryside outside the urban envelope of existing settlements except in accordance with policies including 5.10.5. Policy 5.10.5 looks favourably at new housing development in the countryside where all the following criteria are fulfilled:-

1. The proposal is for a single dwelling required on a permanent basis for an agricultural or forestry worker;
2. The proposal is supported by the Department of Agriculture and Fisheries for Scotland;
3. The need cannot be met by a dwelling in a nearby settlement;
4. The proposed dwelling is not sited in a conspicuous location in the countryside; and is sited near existing building groups;
5. The proposed dwelling is in accordance with the rural character of the area, and in design and materials used does not detract from the amenity of the surrounding countryside;
6. The proposed dwelling has a suitable access on to a public road.

Whilst the proposal is in part for residential accommodation, albeit temporary, and there is considered to be a justification for that accommodation, that justification derives only in part from agricultural activity. In addition the accommodation is not located near existing building groups. Consequently the proposal is not fully compliant with the Adopted Kilmarnock Local Plan.

5.3 The Ayrshire Joint Structure Plan, Policy G5, permits development proposals outside settlements in the rural protection area (where this proposal is located), only where the development:

- A. *has a demonstrated site specific locational need;*
- B. *can be justified in terms of social and economic benefit to the community;*
- C. *contributes to rural land diversification;*
- D. *provides for the operational needs of agriculture and forestry.*

The application complies with these criteria.

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 (EALP), the consultation replies, the objection and the further representations submitted in support of the application including the Agricultural Assessment.

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 should be considered as a prime material consideration.

East Ayrshire Local Plan Finalised Version with Modifications

6.3 The proposal falls to be determined against Policy nos RES13, RES15, RES16 and RES17. In respect of sites such as this being located in the Rural Protection Area, houses can be acceptable subject to a number of criteria.

The Agricultural Assessment shows that there is justification for a dwelling house which in turn establishes compliance with Policy RES13, however the applicant must prove a commitment to the enterprise and the viability of the proposals in accordance with Policy RES16. In these circumstances, it would be appropriate for the enterprise to be operated for a period of 2 years prior to consideration of any permanent accommodation.

6.4 Policy RES15 requires applicants, having established the justification for a dwelling, to utilise in the first instance either existing buildings capable of conversion

or derelict/degraded land; in all cases new development to consolidate or compliment existing groups of houses.

In as much as this is a new enterprise within a holding which is discrete from any existing farm, the current proposals, and any future possible dwellinghouse, require to be conveniently located in the holding and therefore could not consolidate the existing Jocksthorn steading.

6.5 RES17 seeks to prevent residential development in the countryside where it would adversely impact on areas of nature conservation or natural heritage, on the amenity of the location or on road safety.

The proposal is acceptable in terms of Policy RES17.

Consultations

6.6 There are no consultation replies which would indicate that the application should be refused.

Noted.

Representations from the Applicant

6.7 In addition to the Agricultural Assessment, the applicants have submitted a number of details clarifying the nature of the proposal and the current utilisation of the land.

These details reinforce the appropriateness of the development when set against the Development Plan and the other material considerations.

7. FINANCIAL AND LEGAL IMPLICATIONS

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

8. CONCLUSIONS

8.1 As is indicated at paragraph 5.2 of the report, the application is considered not to fully accord with the terms of 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 para 6.2 to 6.7 of the report, there are material considerations relevant to the determination of this application.

8.2 Given the age of the Adopted Local Plan, the Council has agreed that the East Ayrshire Local Plan (Finalised Version with Modifications) should be considered as a prime material consideration. The proposal accords with the EALP other than that it

does not consolidate an existing building group. Nevertheless, the location of the site benefits from being significantly screened by the topography and from an operational aspect needs to be central to the new holding.

8.3 The objection raises valid planning considerations, however, their weight does not overcome the merits of the proposal.

8.4 The application allows for the holding to become established with the prospect thereafter of a separate application for a permanent house. It is considered that the commercial use of the site should be in place over a period of 2 years before a more permanent accommodation is assessed.

8.5 The temporary accommodation is to be located immediately adjacent to the shed. Full details of that accommodation should be required by condition; this being considered appropriate in as much as that unit will be substantially dwarfed by the shed in respect of which details have been lodged.

9. RECOMMENDATION

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

CONTRARY DECISION NOTICE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning and Building Control, the application would not require to be referred to the Development Services Committee as it would not be a significant departure from policy.

Alan Neish
Head of Planning and Building Control

22 April 2002
(DVM/MS)

FV/DVM

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LIST OF BACKGROUND PAPERS

1. Application form and plans.
2. Statutory Notices and Certificates.
3. Consultations Replies.

4. Representations.
5. Adopted Kilmarnock Local Plan.
6. East Ayrshire Local Plan (Finalised Version with Modifications).
7. Approved Ayrshire Joint Structure Plan.
8. Approved Strathclyde Structure Plan.

Anyone wishing to inspect the above papers please contact Dave Morris on 01563 576753.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/0467//FL

Site of Proposal: Lands of Kirklea
Jocksthorn
KILMAURS

Nature of Proposal: Proposed Erection of Storage Shed and Siting of
Temporary Accommodation

Name & Address of Applicant: Mrs P Marr

Name & Address of Agent:

DVM/MS

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

1. The proposed development shall be carried out in accordance with the application form received on 11 December 2001 and the amended plans received by the Planning Authority on 11 December 2001 and 14 January 2002.

REASON To ensure that development is carried out in accordance with the approved details.

2. Notwithstanding the submitted plans, visibility splay areas of $x=2.5$ metres and $y=160$ metres shall be provided and thereafter maintained at the junction of the access road with the public road, (C117), prior to the commencement of the use hereby approved. No obstructions to visibility greater than 1 metre in height shall be allowed within these areas.

REASON To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to have a safe exit.

3. The access road junction with the C117 shall be constructed in accordance with East Ayrshire Council Roads and Transportation Division standards as follows, and a road opening permit shall be obtained before commencement of the work:-

- a) At the junction the access shall be 5.5 metres in width with kerbed radii of 4.5 metres.
- b) The access shall be formed to full road construction standard over the first 4.5 metres.

- c) the above works to the access shall be undertaken before occupation of the temporary accommodation.

REASON To enable drivers of vehicles entering the public road to do so over a junction design sufficient to allow a safe exit and having a secure road surface.

4. Notwithstanding the plan(s) hereby approved, any septic tank provided to serve the development shall be sited in such a position as will enable it to be emptied by the tanker.

REASON In the interest of public safety.

5. The temporary accommodation unit to be installed shall be in a good state of repair and shall be of a type, design and colour having been agreed in writing by the Planning Authority prior to its installation.

REASON In the interest of visual amenity.

6. Notwithstanding the plans hereby approved, the details of finish to the shed are not agreed and details/samples of the materials to be used shall be submitted to and approved by the Planning Authority before any development commences on site.

REASON In the interests of visual amenity.

7. Any loading and unloading of vehicles which may be required in connection with the use of the building and site shall take place within the curtilage of the site.

REASON To safeguard the amenity of the area and in the interest of highway safety.

8. The temporary accommodation shall only be occupied by a person locally employed or locally last employed in agriculture or in forestry on the land to which the temporary accommodation relates; or by a dependant of such a person residing with him or her (or a widow or widower of such a person).

REASON The proposed development involves the construction of residential accommodation in the countryside which would otherwise be refused.

9. The temporary accommodation shall be removed from the site prior to the expiry of three years commencing from the date of this consent.

REASON This residential accommodation is temporary in nature and it would be inappropriate in the interest of visual amenity for such accommodation to be retained on site for any longer period.

10. Notwithstanding the submitted location plan, the consent hereby granted relates to a site having dimensions, and being set out relative to the access lane, in accordance with the amended plan number 2406/3-2001A received on 14 January 2002.

REASON To ensure that the development proceeds in accordance with the approved details.

11. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, this permission relates solely to the use of the proposed storage shed for the purposes indicated in the document "Agricultural Assessment of the Holding of Jocksthorn, Kilmaurs, Ayrshire" produced by Agricultural Consultancy Services. The further express permission of the Planning Authority shall be required in respect of any other use which falls within the same Use Class to the use hereby approved.

REASON To enable the Planning Authority to retain control over the use of the site in the interests of the amenity of the area.

Note To Applicant

1. The applicant is advised to contact the Scottish Environment Protection Agency on 01355 574200 with regard to confirming the method of disposal of septic tank effluent. Surface water should be excluded from the septic tank.
2. The applicant is advised to contact Scottish Water on 0808 100 5333 to discuss how the proposed development would be best served with a public water supply.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA